



**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC BENCH, ALLAHABAD**

BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.136/ALLD/2025
Assessment Year: 2019-20

Sandeep Kumar Pandey 012, Saitapur, Barethi Handia, Allahabad (U.P)	v.	The Income Tax Officer 1(3) Allahabad
TAN/PAN:BLAPP5054M		
(Appellant)		(Respondent)

Appellant by:	Shri Shubham Singh, C.A.
Respondent by:	Shri A. K. Singh, D.R.

ORDER

This appeal has been preferred by the Assessee against the order dated 21.05.2025, passed by the National Faceless Appeal Centre, Delhi (NFAC) for Assessment Year 2019-20.

2.0 The brief facts of the case are that the assessee had not filed the return of income for the year under consideration. The Income Tax Department was in possession of information that the assessee had made cash deposits of Rs.12,27,477/- in bank account No.0369000112307099 maintained with Punjab National Bank and of Rs.86,000/- in bank account maintained with Bank of Baroda during the year under consideration. The case of the assessee was reopened under section 147 of the Income Tax Act, 1961 (hereinafter called "the Act") after issuing

notice under section 148 of the Act. Since there was no compliance from the side of the assessee to the statutory notices issued by the Assessing Officer (AO), the AO proceeded to complete the assessment under the provisions of section 144 of the Act. Since the assessee could not explain and establish the nature and source of the aforementioned cash deposits, totaling to Rs.13,13,477/-, the AO treated the same as unexplained income of the assessee and added the same to the total income of the assessee under section 69A of the Act. The AO completed the assessment under section 147/144 of the Act, assessing the total income of the assessee at Rs.13,13,477/-.

2.1 The AO also invoked the provisions of section 115BBE of the Act and initiated penalty proceedings under sections 271AAC and 272A(1)(d) of the Act, separately.

2.2 Aggrieved, the assessee preferred an appeal before the Ld. First Appellate Authority. However, the appeal before the Ld. First Appellate Authority came to be dismissed ex-parte qua the assessee for the reason of delay of 51 days in filing the appeal before the Ld. First Appellate Authority (NFAC).

2.3 Now, the assessee has approached this Tribunal challenging the order of the NFAC, by raising the following grounds of appeal:

(1) *Id. "CIT(A)/NFAC" has erred in law and on facts while upholding the order passed by the Id. Assessing Officer, without considering the fact that Notice under section 148A(b) was never served on appellant;*

(2) *Id. "CIT(A)/NFAC" has erred in law and on facts while upholding the order passed by the Id. Assessing Officer, without considering the fact that notice under section 148A(b) was a mandatory notice and non - service of such a notice renders the entire assessment proceedings void ab initio ;*

(3) *Id. "CIT(A)" has erred in law and on facts in upholding the view of the Id. Assessing Officer, without considering the fact that notice under section 148 had been issued without providing a copy of approval under section 151, if any, as para 2.2 of circular no. F. No. 299/10/2022-Dir. (Inv. III)/611 dated 01.08.2023 which was binding on revenue;*

(4) *Id. "CIT(A)" has erred in law and on facts in deciding the appeal of appellant on an ex-parte basis;*

(a) Firstly, on the ground of non-prosecution of appeal by appellant without considering the submission made by appellant with respect to merits by filling grounds of appeal and statements of facts in Form 35 and further grounds on 11.03.2025;

(b) Secondly, on the ground of delay in filling of appeal by appellant even though there was no delay in filling of appeal (as said by Id. CIT(A)/NFAC) as he himself had admitted (in his order under section 250) that order under section 144 was served on assessee on 10.05.2024.

(c) Thirdly, without considering the fact that even though there was no delay but such was also supported by

sufficient cause as assessee was ill and had submitted medical records before CIT(A)/NFAC on 11.03.2025

WITHOUT PREJUDICE TO THE AFORESAID

(5) Id. "CIT(A)" has erred in law and on facts in upholding the view of the Id. Assessing Officer without considering the fact that assessee was petty fruit and vegetable vendor and such deposits pertained to such a business;

(6) Id. "CIT(A)" has erred in law and facts in upholding the validity of Ex-Parte Assessment Order passed by Id. Assessing Officer under section 144 without considering the fact that Id. Assessing Officer had not considered the Bank Statements on record [as had been verified by him as per notice under section 148A(a)] in making additions under section 69A;

(7) Id. "CIT(A)" has erred in law and on facts in upholding the view of the Id. Assessing Officer without considering the fact that actual cash deposits amounted to Rs.11,93,700/ on the other hand had alleged assessee of cash deposits amounting to Rs.12,62,500/- but has made addition of Rs.13,13,477/- without any corroborative evidence of such a figure;

(8) Id. "CIT(A)" has erred in law and on facts in upholding the view not of the Id. Assessing Officer without considering the fact that Id. Assessing officer has allowed the benefit of debits/withdrawals made against such cash deposits so to say not allowed the benefit of Tele-scoping to assessee;

(9) Id. "CIT(A)" has erred in law and on facts in upholding the view of the Id. Assessing Officer without considering the fact that Id. Cash deposits does not constitute to have income

escaped from assessment and making addition in isolated manner of such deposits was not tenable;

(10) the order appealed against, is contrary to the facts, law and principles of natural justice;

3.0 It is noticed from record that as per the Registry of this Tribunal, there was a delay of 429 days in filing the appeal before the Tribunal. It is seen that as per Form 36 originally filed by the assessee, the date of order of the Ld. First Appellate Authority was, inadvertently mentioned as 15.03.2024, based on which date, the Registry of this Tribunal had calculated the delay in filing the appeal. However, the assessee, later on, filed a revised Form 36 mentioning the correct date of the order of the Ld. First Appellate Authority, i.e., 21.05.2025, as per which there was no delay in filing the appeal before the Tribunal. Both the parties have conceded to this fact. Hence, the appeal filed by the assessee before the Tribunal on 20.07.2025 against the order dated 21.05.2025 of the Ld. First Appellate Authority was within the stipulated period and there was no delay and, therefore, this appeal is in order and fit for adjudication.

4.0 During the course of hearing, the Ld. Authorized Representative for the assessee (Ld. A.R.) submitted that both the authorities below have passed ex-parte orders without affording reasonable opportunity of hearing to the assessee. The Ld. A.R.

prayed that the matter may be restored to the file of the AO and if an opportunity is given, the assessee will produce all the relevant documents relating to the cash deposits in the bank accounts of the assessee.

5.0 The Ld. Sr. D.R. objected to the restoration of the appeal to the file of the AO as prayed by the assessee and submitted that the appeal of the assessee be dismissed.

6.0 I have heard the Ld. Senior Departmental Representative and have also perused the material on record. It is seen that both the lower authorities have passed ex-parte orders qua the assessee, as the assessee was non-compliant to the notices issued by the authorities below. However, looking into these facts of the case, I am of the considered view that the Assessee deserves one more opportunity to present his case and, therefore, I restore this file to the Office of the Assessing Officer with the direction to provide one more opportunity to the Assessee to explain the source of cash deposits in his bank accounts. I also caution the Assessee to fully comply with the directions of the Assessing Officer in the set-aside proceedings when called upon to do so, failing which, the Assessing Officer would be at complete liberty to pass the order in accordance with

law, based on the material available on record even if it is ex-
parte qua the assessee.

7.0 In the result, the appeal of the assessee stands allowed
for statistical purposes.

Order pronounced in the open Court on 21/11/2025.

Sd/-
[SUDHANSHU SRIVASTAVA]
JUDICIAL MEMBER

DATED:21/11/2025

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

By order

Assistant Registrar/DDO