

IN THE INCOME TAX APPELLATE TRIBUNAL  
JODHPUR BENCH (Virtual) JODHPUR

BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER  
AND DR. S. SEETHALAKSHMI, HON'BLE JUDICIAL MEMBER

ITA No. 202/Jodh/2024  
Assessment Year 2012-13

Banvari C/o. Shri Rajendra Jain, Advocate, 106, Akshay Deep Complex, 5 <sup>th</sup> B Road, Sardarpura, Jodhpur- 342001. PAN No. DVUPB2617G		ITO, Ward-3, Sri Ganganagar.
Assessee by	Shri Rajendra Jain, Advocate	
Revenue by	Dr. Ashwini Hosmani, Addl. CIT-DR	
Date of Hearing	13.11.2025.	
Date of Pronouncement	25.11.2025.	

ORDER

PER DR. MITHA LAL MEENA, A.M.:

This Appeal by the assessee is directed against the order of National Faceless Appeal Central, Delhi (hereinafter referred to as "NFAC/CIT(A)") dated 30.01.2024 in respect of assessment year 2012-13 challenging therein non admission of appeal in violation of provisions of section 249(4)(b) of the Act.



2. At the outset, the Ld. AR submitted that the CIT(A), NFAC has erred on facts and law while denying the admission of appeal on account of non-payment of advance tax as provided u/s 249(4)(b) of the Act without appreciating the contention of the appellant in view of the intention of the legislature behind the provisions of section 249(4)(b) of the Act where the assessee intends to take advantage of appeal under Chapter XX of the Income Tax that he should pay the admitted tax liability of payment of advance tax on the admitted income before filing the appeal. The AR argued that the CIT(A), while rejecting the admission of appeal on account of non-payment of advance tax as provided u/s 249(4)(b) of the Act has not appreciated the settled principles of law that there should be liberal interpretation of provisions of Section 249(4)(b) of the Act.
3. The AR further submitted that the Ld. CIT(A)'s did not issue any deficiency letter w.r.t. the payment of tax or non-filing of return of income in time the assessee. The assessee has requested the Ld. CIT(A) for exemption u/s 249(4)(b) of the Act from payment of taxes as during the year under consideration, the assessee was not having any taxable income. It was requested that the appeal filed by the assessee may kindly be admitted and the case of the assessee may kindly be set aside to the file of Worthy CIT-(A) to be decided denovo after the



assessee be provided a sufficient opportunity of being heard. The assessee assures that he will comply with the notices issued during the course of appellate proceedings.

4. The Ld. DR relied on the order of the Ld. CIT(A).

5. We heard both the sides and perused the material on record. Admittedly, the Ld. CIT(A) has rejected the contention of the assessee while denying to admit the appeal on the application of Section 249(4)(b) of the Act stating that the assessee has not paid an amount equal to the amount of advance tax which was payable by him u/s 249(4) of the Act.

6. It is noted that the Ld. CIT(A) has ignored the contention of the appellant regarding the fact that the assessee does not have any admitted tax liability as the additional demand of tax has been computed on account of alleged unexplained cash deposits/withdrawals and credit entries in the bank account. The Ld AR undertakes to submit the copy of computation of income to demonstrate that the assessee did not have any taxable income by referring to the disputed cash deposits etc. which belongs to the assessee. Thus, the AR contended that for the year under consideration, the assessee has not taxable income and therefore, he was not required to deposit any advance tax.



7. In the present case of the assessee, the assessee did not file his ITR for the captioned year as he claimed that he did not have taxable income and the additions are made by the Ld. AO during the course of assessment proceedings without granting opportunity and taking rebuttal of the appellant assessee on record. Meaning thereby that there was no admitted tax liability by the assessee rather, all the additions are challenged by the assessee before the Appellate authority. In our view, since the assessee did not have any taxable income resulting into advance tax liability or the admitted tax liability, there does not arise any question of dismissal of appeal of the assessee as per mandate of the Section 249(4)(b) of the Income Tax Act, 1961 unless the claim of the assessee is disproved.

8. Thus, the appellant has presented a prima facie case, of no obligation, to make payment of advance tax u/s 208 of the Act 1961, for the year under appeal. Under the facts and circumstances the appeal filed by the assessee would be liable to be admitted for adjudication on merits until and unless deficiency letter issued u/s 249(4)(b) and claim of appellant disproved. Accordingly, we set aside the matter to the file of the CIT(A) to decide the appeal de novo after granting sufficient opportunity of being heard to the appellant. We also direct the



appellant to fully comply with the notices issued during the course of de novo appeal proceedings before the Ld. CIT(A).

9. Accordingly, we restore the appeal to the file of the CIT(A) for adjudication in accordance with law.

10. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on <sup>25</sup>...../..11...../2025 in the open Court.

— sd —

(DR. S. SEETHALAKSHMI)  
JUDICIAL MEMBER

Dated : <sup>25</sup>...../..11...../2025

— sd / —

(DR. MITHA LAL MEENA)  
ACCOUNTANT MEMBER

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

By Oder

ITA No. 202/Jodh/2024  
Assessment Year 2012-13

Assistant Registrar,  
Income Tax Appellate Tribunal,  
Jodhpur Bench,  
Jodhpur.