

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**INDORE BENCH, INDORE**  
**BEFORE HON'BLE KUL BHARAT, JUDICIAL MEMBER**  
**AND HON'BLE MANISH BORAD, ACCOUNTANT MEMBER**

**ITA No.354/Ind/2017**

**Assessment Year 2012-13**

Shri Juzer Bannatwala, 65, Scheme No.102, Manik Bagh Road, Indore (Appellant)	Vs.	ITO-2(4), Indore (Respondent )
PAN No.AHLPB7786Q		

Revenue by	Shri K.C. Selvamani, Sr.DR
Assessee by	Shri S.S. Solanki, C.A
Date of Hearing	10.01.2019
Date of Pronouncement	11.01.2019

**ORDER**

**PER MANISH BORAD, AM.**

The above captioned appeal filed at the instance of assessee pertaining to Assessment Year 2012-13 is directed against the orders of Ld. Commissioner of Income Tax (Appeals)-I (in short 'Ld.CIT(A)'], Indore dated 30.01.2017 which are arising out of the

order u/s 143(3) of the Income Tax Act 1961(In short the 'Act') dated 23.03.2015 framed by ITO-2(4), Indore.

2. The assessee has raised following grounds of appeal;

“1. That the learned CIT(A) erred in confirming the addition of Rs.35,00,000/- on account of alleged unexplained creditors u/s 68. That the assessee has proved all the ingredients of section 68, the addition so made require to be deleted”.

3. From perusal of the record, we find that the instant appeal is time barred by 9 days. We have gone through the submission for condonation of delay along with the affidavit and find that the assessee was suffering from illness which prevented him from filing appeal before the Tribunal. We, in the interest of justice and the reasonable cause mentioned in the affidavit, condone the delay of 9 days and admitt the appeal for adjudication.

4. At the outset Ld. Counsel for the assessee referring to the affidavit of Shri Sohanlal Kumawat submitted that he is one of the alleged unexplained creditor and the affidavit has been filed in order to explain the cash credit. He prayed for granting one more opportunity to go before the Ld.A.O so as to explain the alleged

creditors of Rs.35,00,000/- which was added to the income by Ld.A.O u/s 68 of the Act. He also stated as an Officer of the court, that all the alleged creditors, for which the addition has been made by the Ld.A.O, shall be produced before the Ld.A.O in the set aside proceedings, so that the Learned Assessing Officer can confront the creditors so as to satisfy about the identity, genuineness and creditworthiness of the cash creditors of Rs.35,00,000/-.

5. Per contra Ld. Departmental Representative though supported the orders of lower authorities but did not oppose this request of the Ld. Counsel for the assessee for afresh adjudication of the issue subject to the personal appearances of all the alleged cash creditors before the Ld.A.O to be examined for the identity, genuineness and creditworthiness.

6. We have heard rival contentions and perused the records placed before us. We find that the assessee is engaged in the business of plying light vehicle, brokerage and agricultural income. Return of income was filed on 03.01.2013 declaring income of

Rs.2,30,246/-. The case was selected for scrutiny u/s 143(2) of the Act and the assessment u/s 143(3) was completed on 23.03.2015 after making addition of unexplained cash creditors of Rs.35,00,000/- from four different creditors as well as addition of Rs.1,52,000/- for income from other sources. Assessee filed an appeal before Ld.CIT(A) but failed to succeed on the ground relating to addition for unexplained cash creditors u/s 68 of the Act at Rs.35,00,000/-. Now the assessee is in appeal before the Tribunal.

7. The Ld. Counsel for the assessee requested for one more opportunity to go before Ld.A.O to prove the identity, genuineness and creditworthiness of the four cash creditors namely S/Shri Bhupendra Singh, Malkhan Singh, Manohar Singh and Sohanlal for the alleged unexplained cash credit of Rs.7,00,000/-, Rs.6,00,000/-, Rs.7,00,000/- and Rs.15,00,000/- respectively. The assessee has also filed an affidavit on 28.12.2018 of Shri Sohanlal in order to explain the credit of Rs.15,00,000/- on 28.12.2018. The revenue has not objected to the request for afresh examination of the issue.

8. We therefore in the given facts and circumstances of the case and in view of the request made by both the parties set aside the issue raised in this appeal to the file of Assessing Officer for *denovo* adjudication with the direction to the assessee to produce all the above referred four cash creditors along with necessary details and document before the Ld.A.O, who will examine the identity, genuineness and creditworthiness of the alleged unexplained cash creditors totaling to Rs.35,00,000/- and after being satisfied should decide accordingly. Needless to mention that reasonable opportunity of being heard should be provided to the assessee.
9. In the result the appeal of the assessee is allowed for statistical purposes.

The order pronounced in the open Court on 11.01.2019.

**Sd/-**  
**( KUL BHARAT)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

दिनांक /Dated : 11 January, 2019

/Dev

Juzer Bannatwala  
ITA No.354/Ind/2017

Copy to: The Appellant/Respondent/CIT concerned/CIT(A)  
concerned/ DR, ITAT, Indore/Guard file.

By Order,  
Asstt.Registrar, I.T.A.T., Indore