

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA 'C(SMC)' BENCH, KOLKATA**

**Shri Manish Borad, Accountant Member  
&  
Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No. 110/KOL/2022  
Assessment Year: 2017-2018**

***Mahafijul Hoque,.....Appellant  
Tikorbaria, Faridpur, Jalangi,  
Murshidabad-742303, West Bengal  
[PAN: ABPPH8670M]***

**-Vs.-**

***Income Tax Officer,.....Respondent  
Ward-42(4), Murshidabad,  
39, R.N. Tagore Road, Berhampore,  
Dist. Murshidabada-742101, West Bengal***

**Appearances by:**

*Shri Subhranshu China Advocate, appeared on behalf of the assessee  
Shri B.S. Anand, JCIT (Sr. DR), appeared on behalf of the Revenue*

Date of concluding the hearing : April 28, 2022  
Date of pronouncing the order : May 4<sup>th</sup> , 2022

**O R D E R**

**Per Manish Borad, Accountant Member:-**

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 29.12.2021 passed under section 250 of the Income Tax Act, 1961.

2. The assessee has raised the following grounds of appeal:

(1) That the Ld. Assessing Officer was wrong to invoke section 69 A of The Income Tax Act., 1961 and the Ld. Commissioner of Income-tax (Appeals) was wrong in confirming addition u/s 69A amounting Rs. 30,72,100/- made by the Ld. Assessing Officer.

(2) That without prejudice to the contention raised in Ground No. 1 above, the Ld. Commissioner of Income-tax (Appeals) was wrong in

confirming addition of amounting Rs. 30,72,100/- as unexplained money.

- (3) That without prejudice to the contentions raised in Grounds Nos. 1 and 2 above, another opportunity is being prayed before your kind honour to represent the instant case as the assessee has been failed to represent the case earlier due to the reasons and facts beyond control of the assessee”.

3. At the outset, Id. Counsel for the assessee submitted that the assessee has been severely ill for past so many years and is a paralytic patient and this prevented the assessee from appearing before the Id. Assessing Officer as well as Id. CIT(Appeals). A request made to restore all the issues to Id. Assessing Officer for fresh adjudication.

4. Per contra, Id. D.R. supported the orders of lower authorities.

5. We have heard the arguments of both the parties and also perused the relevant material available on record. We note that the assessee is an individual. A notice under section 142(1) of the Act was issued to the assessee for furnishing the return of income. There was no compliance on behalf of the assessee and as a result, ex-parte order under section 144 of the Act was passed making addition to the income of the assessee. This order was challenged by the assessee before the Id. CIT(Appeals). Again due to the reason as indicated above, the assessee could not appear or file necessary documents in support of his contention. Before us, Id. Counsel for the assessee has filed a paper book comprising of 29 pages containing Tax Audit Report for Financial Year 2016-17, Audited Balance-sheet and Bank Statement. Considering the overall facts of the case, ill health of the assessee and books of account being audited, we find sufficient force in the contention of the Id. Counsel for the assessee. Thus keeping in view all the facts and circumstances of the case, we consider it fair and proper and in the interest of justice to accept the contention of the Id. Counsel for the assessee and therefore, set aside the impugned order passed by the Id. CIT(Appeals) and restore all the matters raised in

the instant appeal to the file of the Assessing Officer for deciding the same denovo after giving proper and sufficient opportunity to assessee to substantiate his claim by producing the relevant details and documents.

**6. In the result, the appeal of the assessee is treated as allowed for statistical purposes.**

Order pronounced in the open Court on May 4<sup>th</sup> , 2022.

**Sd/-  
(Sonjoy Sarma)  
Judicial Member**

**Sd/-  
(Manish Borad)  
Accountant Member**

***Kolkata, the 4<sup>th</sup> day of May, 2022***

*Copies to :* (1) ***Mahafijul Hoque,  
Tikorbaria, Faridpur, Jalangi,  
Murshidabad-742303, West Bengal***

(2) ***Income Tax Officer,  
Ward-42(4), Murshidabad,  
39, R.N. Tagore Road, Berhampore,  
Dist. Murshidabada-742101, West Bengal***

(3) ***Commissioner of Income Tax (Appeals), National Faceless  
Appeal Centre, (NFAC), Delhi***

(4) ***Commissioner of Income Tax,***  
(5) ***The Departmental Representative***  
(6) ***Guard File***  
**TRUE COPY**

*By order*

***Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata***

***Laha/Sr. P.S.***