

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER) AND  
SHRI SANDEEP SINGH KARHAIL (JUDICIAL MEMBER)**

**ITA No. 2120/MUM/2021  
Assessment Year: 2017-18**

Rajan Pradeepkumar Dubey,  
E/11 Flat No. 2, Deshmukh Home  
Building, Tata Power House,  
Tata Power Lane,  
Dombivali (East)-421 201.  
**PAN No. BBZPD 9784 K**  
**Appellant**

Commissioner of Income Tax  
(AU)-2,  
2<sup>nd</sup> floor, Ravi Mansion, Murbad  
Road,  
Kalyan-421 301.  
**Respondent**

Assessee by : Mr. Haresh Joshi, AR  
Revenue by : Mr. Ajeya Kumar Ojha, DR

Date of Hearing : 27/06/2022  
Date of pronouncement : 05/07/2022

**ORDER**

**PER OM PRAKASH KANT, AM**

The assessee has preferred this appeal against the order dated 01.04.2021 of National Faceless Appeal Centre (NAFC), Delhi, [hereinafter referred as 'the Ld. CIT(A)'], for assessment year 2017-18, raising following grounds:



1. *The Hon'ble CIT (A) erred in confirming addition of Rs 1,51,500/- (Rupees One Lakh Fifty One Thousand Five Hundred Only) u/s 69A of Income Tax act, 1961 to the total returned income without enquiring into the facts and circumstances of the case and provision of the Income Tax act, 1961 and rules made thereunder.*
2. *2) The Assessing officer erred in making addition of Rs. 1,51,500/- ignoring the CBDT Instruction No: 03/2017 dated 21st February, 2017 regarding Cash Deposit during the Demonetization period and CIT (A) also confirmed the same without appreciating the said CDT Instruction No 03/2017.*

2. At the outset, we find that appeal has been filed with delay of 175 days. The date of communication of order of Ld. CIT(A) in Form No. 36 has been reported as 01.04.2021 and therefore appeal was due for filing on 01.06.2021, whereas appeal has been filed on 21.11.2021. We find that the appeal has been filed within the period extended by the Hon'ble Supreme Court in Miscellaneous Application No. 21 of 2022 in *suo moto* writ petition (C) No. 3 of 2020, wherein it is directed that period from 15/03/2020 till 28/02/2022 shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all



judicial or quasi judicial proceedings. Accordingly, the appeal is admitted for adjudication.

3. Before us, the Ld. counsel of the assessee submitted that the assessee could not represent before the Ld. CIT(A) due to the fact that assessee was in police custody during the period. The Ld. counsel of the assessee submitted that the assessee is willing to represent before the Ld. CIT(A) and file evidence in support of its claim of source of deposits of ₹1,51,500/- in his bank account which has been held as unexplained money u/s 69A of the Income Tax Act, 1961 (in short 'the Act') by the Assessing Officer.

4. In view of the facts and circumstances that the assessee was prevented from reasonable cause in representing before the Ld. CIT(A) but the Ld. CIT(A) has decided the matter *ex-parte* without any explanation by the assessee. In the interest of substantial justice, we feel it appropriate to restore this appeal to the file of the Ld. CIT(A) for deciding afresh. The assessee is also directed to file the



necessary evidence in support of its claim before the Ld. CIT(A) and co-operate in disposal of the appeal. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

**Order pronounced in the Court on 05/07/2022.**

Sd/-

**(SANDEEP SINGH KARHAIL)**  
**JUDICIAL MEMBER**

Sd/-

**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**

Mumbai;

Dated: 05/07/2022

Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Sr. Private Secretary)  
**ITAT, Mumbai**