

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH
MUMBAI**

BEFORE: SHRI M.BALAGANESH, ACCOUNTANT MEMBER

**ITA No.2197/Mum/2022
(Assessment Year :2017-18)**

M/s. Kanayalal Dayanand Chachra 103, Sheetal Building V.N.Purav Marg Narayan Nagar Chunabhatti, Kurla Mumbai- 400 022	Vs.	Income Tax Officer Ward- 34(1)(7) Mumbai
PAN/GIR No.AGDPC6678F		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Shri Pratap Narayan Sharma
Date of Hearing	26/10/2022
Date of Pronouncement	26/10/2022

आदेश / O R D E R

PER M. BALAGANESH (A.M.):

This appeal in ITA No.2197/Mum/2022 for A.Y.2017-18 arises out of the order by the Id. Commissioner of Income Tax (Appeals) National Faceless Appeal Centre (NFAC) in appeal No.CIT(A)-46, Mumbai/10431/2019-20 dated 22/07/2022 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 23/12/2019 by the Id. Income Tax Officer Ward-34(1)(7), Mumbai (hereinafter referred to as Id. AO).

2. The only issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in confirming the addition made u/s.69A of the Act in respect of cash deposits made by the assessee during demonetisation period in the sum of Rs.13,86,500/- in PMC bank and ICICI bank.

3. None appeared on behalf of the assessee. We have heard the Id. DR and perused the materials available on record. It is not in dispute that assessee had indeed made cash deposits of Rs.13,86,500/- during demonetisation period in PMC bank and ICICI bank maintained by the assessee. The assessee is an individual deriving salary income, income from other sources and commission income. The assessee has been regularly filing its income tax returns for the last 10-12 years and had been maintaining capital account and balance sheet regularly as stated in the statement of facts filed before this Tribunal. It was also pleaded that the balance sheet as on 31/03/2017 and 31/03/2016 was filed by the assessee before the Id. AO. The assessee indeed gave certain explanation for the cash deposits made during the demonetisation period which are mentioned in pages 4-6 of the assessment order. We find that the Revenue had alleged that the assessee had made contradictory statements and had given contradictory explanations with regard to cash balance available with it. Accordingly, the Revenue had proceeded to treat the cash deposits made in the bank account as unexplained cash and made addition u/s.69A of the Act treating the assessee to be the owner of the said money. We find that the Id. CIT(A) had passed an order exparte in the instant case. Though the Id. CIT(A) had given the list of dates on which hearing notices were sent to the assessee by e-mail in pages 3 & 4 of his order, the assessee had rebutted the same in the statement of facts filed before us by stating that notices were issued in bulk folders on the e-mail and assessee could not have access to the said notices. In fact, the

last notice dated 20/06/2022 requesting the assessee to appear on 05/07/2022 was received by the Advocate of assessee and on 04/07/2022 the assessee had requested for an adjournment. The second notice dated 11/07/2022 was stated to be not available in the mail ID of the assessee. In these circumstances, we deem it fit to grant one more opportunity to the assessee, considering the fact that assessee has been assessed to tax for the last 10-12 years and has been regularly maintaining its balance sheet which is already part of record before the lower authorities. Hence, we deem it fit and appropriate to remand this appeal to the file of the Id. CIT(A) for denovo adjudication in accordance with law. The assessee is at liberty to adduce fresh and further evidences, if any, in support of its contentions to prove the source of cash deposits made during demonetisation period. The Id. CIT(A) is hereby directed to adjudicate the issue afresh uninfluenced by the decision taken earlier in this regard by duly adjudicating the evidences placed on record by the assessee. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

4. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in open Court on 26/10/2022.

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 26/10/2022
KARUNA, sr.ps

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Sr. Private Secretary / Asstt. Registrar)
ITAT, Mumbai