

ITA No. 7/KOL/2022  
Assessment Year: 2017-2018  
Manju Baheti, Kolkata

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

**Before Shri Rajpal Yadav, Vice-President (KZ)  
&  
Shri Girish Agrawal, Accountant Member**

**I.T.A. No. 7/KOL/2022  
Assessment Year: 2017-2018**

**Manju Baheti,.....Appellant**  
**32/1A, Ram Krishna Samadhi Road,**  
**Flat 4B, Kolkata-700054**  
**[PAN: ALHPS3163N]**

**-Vs.-**

**Assessing Officer,.....Respondent**  
**Ward-37(2), Kolkata,**  
**3, Government Place (West),**  
**Kolkata-700001**

**Appearances by:**

*Shri R. Chowdhury, FCA, appeared on behalf of the assessee*  
*Shri Vijay Kumar, Addl. CIT, Sr. D.R., appeared on behalf of*  
*the Revenue*

**Date of concluding the hearing : October 20, 2022**

**Date of pronouncing the order : 12/12/2022**

**O R D E R**

**Per Girish Agrawal, Accountant Member:-**

The present appeal by the assessee is against the order of Id. Commissioner of Income Tax(Appeals), National Faceless Appeal Centre (NFAC), Delhi in order No.

ITBA/NFAC/S/250/2021-22/1034495840(1) dated 29<sup>th</sup> July, 2021 against assessment order passed under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as the 'Act') by Income Tax Officer, Ward-37(2), Kolkata for Assessment Year 2017-18, dated 29.12.2019.

2. Registry has pointed out that both the appeals are time-barred by 101 days, but it is to be observed that the impugned order was passed on 29.07.2021 after the COVID period started and the appeal has been filed before the Tribunal in January, 2022. The period of limitation is being excluded by the Hon'ble Supreme Court in its order, passed time to time in *suo motu* Writ Petition No. 2 of 2020. The directions have been issued by the Hon'ble Court and have been extended from time to time and if the COVID period is being excluded keeping in view the Hon'ble Supreme Court's order, then there is no substantial delay in filing the appeal on the part of the assessee. Therefore, we condone the delay and admit the appeal for adjudication.

3. The sole issue in the present appeal relates to confirmation of addition of Rs.5,50,000/- on account of deposit of cash in the two Bank Accounts of the assessee during the year under consideration.

4. Brief facts of the case are that assessee filed her return of income on 31.10.2017 reporting total income of Rs.5,96,530/-. The case was selected for limited scrutiny through CASS for the issue "cash deposit during the demonetization period". Statutory notices were issued and

served upon the assessee, which were complied with. Ld. Assessing Officer completed the assessment by holding that out of the deposit of Rs.6,50,000/- of cash in the two bank accounts of the assessee, Rs.1,00,000/- is accepted as assessee might be having cash in hand as on 08.11.2016, which was subsequently used for deposit during the demonetization period. He thus, completed the assessment by making an addition of Rs.5,50,000/- under section 69A of the Act.

4.1. It is important to note that during the demonetization period, the assessee had deposited cash of Rs.2,50,000/- on 13.11.2016 in Kolkata Branch of ICICI Bank and Rs.4,00,000/- at Allahabad in ICICI Bank on 23.11.2016 as noted by the ld. A.O. in the impugned assessment order. Aggrieved, assessee went in appeal before the ld. CIT(Appeals), who confirmed the addition against which the assessee is in appeal before the Tribunal.

5. Before us, Shri R. Chowdhury, FCA, represented the assessee, who placed a paper book on record, containing 58 pages. Ld. Counsel for the assessee pointed out to the copies of acknowledgment of income tax returns filed by the assessee from assessment year 2011-12 to assessment year 2017-18, placed at pages 37 to 43 of the said paper book. From these returns filed by the assessee, it was contended that the assessee has always been regularly filing her income tax returns with substantial amount of income. Details of return filed and the gross total income reported therein is tabulated as under:-

Sl. No.	Assessment year	Gross total income
1	2011-12	Rs.2,80,820
2	2012-13	Rs.3,16,379/-
3	2013-14	Rs.3,04,530/-
4	2014-15	Rs.4,05,147/-
5	2015-16	Rs.7,21,257 + exempt income of Rs.10,04,386/-
6	2016-17	Rs.7,68,702/- + exempt income of Rs.1,06,768/-
7	2017-18	Rs.8,94,118/- + exempt income of Rs.44,879/-

6. Ld. Counsel for the assessee also referred to the Cash Flow Statement prepared for the period 01.04.2013 to 31.03.2017 to demonstrate the availability of cash in hand with the assessee, which was deposited during the demonetization period on 13.11.2016 and 23.11.2016. He also contended that assumption by the ld. Assessing Officer of having a cash in hand of Rs.1,00,000/- as on 08.11.2016 is adhoc and without any basis.

6. Per contra, ld. Sr. DR Shri Vijay Kumar, Addl. CIT placed reliance on the order of the authorities below.

7. We have heard the rival contentions and perused the material placed on record. Admittedly, it is an undisputed fact that the assessee has been regularly filing her income tax returns for past several years as tabulated hereinabove reporting substantial income in her hands. Deposit of cash in Bank accounts during the demonetization period arose out of unavoidable circumstances, which prevailed during that

time. The amount deposited by the assessee is Rs.6,50,000/- as stated above, which is adequately substantiated and supported by gross total income as well as the exempt income reported by her in regular returns of income, placed on record. There is nothing brought on record by the authorities below to demonstrate anything otherwise or contrary in respect of the returns filed by the assessee. Considering the facts on record, we do not find any justification in the approach adopted by the ld. Assessing Officer in making an addition of Rs.5,50,000/- by giving an adhoc relief of Rs.1,00,000/- on an estimate basis by assuming that the assessee had cash in hand of Rs.1,00,000/- on 08.11.2016 i.e. on the date of announcement of demonetization. We accordingly direct the ld. Assessing Officer to delete the addition made in this respect. Accordingly, the grounds taken by the assessee are allowed.

**9. In the result, the appeal of the assessee is allowed.**

Order pronounced in the open Court on 12<sup>th</sup> December, 2022.

Sd/-

**(Rajpal Yadav)  
Vice-President(KZ)**

Sd/-

**(Girish Agrawal)  
Accountant Member**

***Kolkata, the day of 12<sup>th</sup> December, 2022***

*Copies to :* (1) ***Manju Baheti,  
32/1A, Ram Krishna Samadhi Road,  
Flat 4B, Kolkata-700054***

**(2) Assessing Officer,  
Ward-37(2), Kolkata,  
3, Government Place (West),  
Kolkata-700001**

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

- (4) Commissioner of Income Tax, Kolkata- ;*  
*(5) The Departmental Representative*  
*(6) Guard File*

*TRUE COPY*

*By order*

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

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