

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'एसएमसी', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA**

**श्री संजय गर्ग, न्यायिक सदस्य के समक्ष**  
**Before Shri Sanjay Garg, Judicial Member**

**I.T.A. No.388/Kol/2022**  
**Assessment Year: 2017-18**

**Sekh Nazibul Alam..... Appellant**  
**Shyamsundarpur, Burdwan Sadar,**  
**Purba Bardhaman**  
**W.B. 713141.**  
**[PAN:BQJPA6789G]**

**vs.**

**ITO, Ward-1(1), Burdwan..... Respondent**

**Appearances by:**

Shri Bisweswar Ghosh, Advocate, appeared on behalf of the appellant.

Smt. Ranu Biswas, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : March 14, 2023

Date of pronouncing the order : March 14, 2023

**आदेश / ORDER**

The present appeal has been preferred by the assessee against the order dated 19.05.2022 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The assessee in this appeal has taken the following grounds of appeal:

*"1. The ld. CIT(Appeals), NFAC erred in confirming the addition made by the A.O to the tune of Rs.12,00,000/- u/s 69A of the Act.*

*2. The ld. CIT(Appeals), NFAC passed the order without giving opportunity of being heard to the assessee.*

3. *The appellant craves leave to supplement, substitute, add, alter, amend, cancel or modify all or any grounds at the time of hearing.”*

3. At the outset, the Id. Counsel for the assessee has submitted that the assessee is in the business of the commission agent. The assessee purchases fuel recharge card on payment of money and thereafter the assessee operates its business at a petrol pump. When the trucks come for fuel refilling, the assessee gives fuel to them through his card and receives cash from the trucks which they otherwise have to pay to the petrol pump. The assessee, in this way, earns some points because of fuel recharge card and that is the income of the assessee. When the cash is collected from the truckers, the assessee deposits the same in his bank account. From the said bank account, the assessee again recharges his fuel recharge card. The Id. Counsel for the assessee invited my attention to the bank statement to show that every time the cash was deposited that was used for recharge of fuel recharge card. It is not the case of the Revenue that the assessee himself owns so many vehicles or that the cash deposits by the assessee are relating to some other source. The cash deposited, in his bank account, is not used for any purpose other than for fuel recharge. The assessee has explained his modus operandi that the said fuel purchased is done by the assessee on behalf of the trucks who visit particular petrol pump where the assessee operates. From the overall facts and circumstances of the case, it appears that it is not the case of unaccounted income of the assessee rather the assessee in this case had devised a scheme to get income and thereby earn his livelihood by manipulating the user of the individual fuel recharge card for purchasing fuel for so many persons by operating at a particular petrol pump and the truckers do not mind to get the fuel refilled through his card, which otherwise have to pay in

cash to the petrol pump owner. In this view, I do not find any justification on the lower authorities for disallowance of Rs.12,00,000/- u/s 69A of the Act.

4. In the result, the appeal of the assessee stands allowed.

***Kolkata, the 14<sup>th</sup> March, 2023.***

Sd/-  
[संजय गर्ग /Sanjay Garg]  
न्यायिक सदस्य/Judicial Member

Dated: 14.03.2023.

RS

*Copy of the order forwarded to:*

1. Sekh Nazibul Alam
2. ITO, Ward-1(1), Burdwan
3. CIT  
(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches