

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “SMC” BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &
DR. B.R.R.KUMAR, ACCOUNTANT MEMBER**

**ITA No.1512/Del/2023
[Assessment Year : 2017-18]**

Prakash Jain, A-109, Vivek Vihar, Phase-2, Delhi-110095. PAN-BCBPJ9645Q	vs	ITO, Ward-70(1), New Delhi.
APPELLANT		RESPONDENT
Appellant by	Shri Sandeep Manaktala, CA	
Respondent by	Shri Om Parkash, Sr.DR	
Date of Hearing	20.06.2023	
Date of Pronouncement	30.06.2023	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2017-18 is directed against the order of Ld. CIT(A), National faceless Appeal Centre (“NFAC”), Delhi dated 07.04.2022.

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

1. *“That the order of the LD CIT (A) NATIONAL FACELESS APPEAL CENTRE (NFAC) [hereinafter referred to as CIT (A)] is bad in law and on facts.*
2. *That the learned CIT(A) failed to take cognizance of the fact that the addition of Rs 24,12,500/-rather than factual findings and without considering the documents on record. The addition was not done on inaccurate particulars or concealment of income but it was due to non-submission of replies by the Appellant then Counsel who did not complete/attend to the professional work nor informed the appellant (assessee) about his disinterest in completing the professional assignments.*

3. *On the facts and circumstances of the case, the LD CIT(A) has erred, both on facts and in law, in confirming the addition of an amount of Rs 24,12,500/- made by LD Assessing Officer under section 144 of the Income Tax Act, 1961.*
4. *On the facts and circumstances of the case, the LD CIT(A) has erred, both on facts and in law, failed to take cognizance of the fact that the Assessment Order dated 05th December,2019 have been passed in a mechanical manner in violation of principles of natural justice with a predetermined mind to make additions in respect of cash deposited during the demonetization period.*
5. *On the facts and circumstances of the case, the LD CIT(A) has erred, both on facts and in law, in confirming the addition of an amount of Rs 24,12,500/-on account of credits in the bank account of the Appellant.*
6. *That the addition was made despite the fact that the bank account is the duly disclosed account, as such no addition can be made on this account.*
7. *That any consequential relief to which the appellant may be entitled to under the foregoing grounds of appeal may kindly be granted to the appellant.*
8. *That the appellant craves the leave to add, alter or amend the grounds of appeal including legal ground at any stage and all the grounds are without prejudice to each other.”*

3. The appeal is barred by limitation as there is delay in filing of the appeal by the assessee. An application seeking condonation of delay has been filed by the assessee. He relied on the judgment of the Hon'ble Supreme Court rendered in the case of *Collector of Land Acquisition vs Mst. Katiji & Ors.* 167 ITR 471. Therefore, considering the judgement of Hon'ble Supreme Court in the above-mentioned case (supra), the delay in filing the appeal is condoned and the appeal of the assessee is taken up for hearing.

4. At the outset, Ld. Counsel for the assessee submitted that the authorities below did not provide adequate opportunity of being heard as the assessment order was passed *ex-parte* to the assessee. Similarly, Ld.CIT(A) has also passed the impugned order *ex-parte* to the assessee. He further submitted that in the interest of principle of natural justice, the assessment to be restored to the file of Assessing Officer (“AO”).

5. On the other hand, Ld. Sr. DR opposed these submissions and supported the orders of the authorities below.

6. We have heard Ld. Authorized Representatives of the parties and perused the material available on record. We find that the lower authorities have passed impugned order *ex-parte* to the assessee. Ld.CIT(A) did not adjudicate the appeal on merit. Therefore, considering the totality of the facts, the impugned order is set aside and the assessment is restored to the file of the AO to frame assessment afresh after giving reasonable opportunity of being heard to the assessee. The assessee would not seek any adjournment without reasonable cause and cooperate in the assessment proceedings. Grounds raised by the assessee are thus, allowed for statistical purposes.

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

Order pronounced in the open Court on 30th June, 2023.

Sd/-

**(DR.B.R.R.KUMAR)
ACCOUNTANT MEMBER**

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

* Amit Kumar *

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI