

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

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER  
AND  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No.2421/M/2023  
Assessment Year: 2017-18**

Shri Vikrant K Jain, 1003, 10 <sup>th</sup> Floor, Kamal Darshan, Chivada Galli, Lalbaug Industrial State, Mumbai – 400 012 <b>PAN: AGDPJ4500F</b>	Vs.	Income Tax Officer- 23(3)(7), Earnest House, Nariman Point, Mumbai - 400021
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Kapil Narang, A.R.  
Revenue by : Shri Ajay Singh, D.R.

Date of Hearing : 11 . 10 . 2023  
Date of Pronouncement : 31 . 10 . 2023

**O R D E R**

**Per : Kuldip Singh, Judicial Member:**

The appellant, Shri Vikrant K Jain (hereinafter referred to as 'the assessee') by filing the present appeal, sought to set aside the impugned order dated 15.05.2023 passed by the National Faceless Appeal Centre(NFAC) [Commissioner of Income Tax (Appeals), Delhi] (hereinafter referred to as CIT(A)) qua the assessment year 2017-18 on the grounds inter-alia that :-

*"1. On the facts and in the circumstances of the case and in law the learned Commissioner of Income Tax (Appeals) erred in confirming addition made by the learned Assessing Officer of Rs.3600000/- (being*

*cash deposits during demonetization period) as unexplained cash credit under section 68 of the Act.*

2. *On the facts and in the circumstances of the case and in law the learned Assessing Officer erred in taxing unexplained cash credit of Rs.3600000/- under section 115BBE of the Act.*

3. *The order made by the learned Commissioner of Income tax (Appeals) confirming order made under section 143(3) of the Act is illegal, bad-in-law, ultra virus and without allowing reasonable opportunity of the hearing, and without appreciating facts, submission and evidences in their proper perspective is liable to be set aside.*

4. *The learned Commissioner of Income Tax (Appeals) erred in confirming charging of interest under section 234A, 234B and 234C and 234D of the Act*

5. *The appellant crave leave to add, amend, alter and / or vary any of the grounds of appeal before or at the time of hearing.”*

2. Briefly stated facts necessary for consideration and adjudication of the issues at hand are : the assessee is an individual having income from salary and income from business of retail trade of designer sarees in the name and style of proprietorship concern M/s. Shringar Designer Studio. The return of income filed by the assessee for the year under consideration when subjected to scrutiny, it was noticed that there is a cash deposit of Rs.36,00,000/- during demonetization. The Assessing Officer (AO) called for the information under section 133(6) of the Income Tax Act, 1961 (for short ‘the Act’) from HDFC Bank. Declining the contentions raised by the assessee that the cash amount deposited by the assessee in the bank is the receipt of cash sales, the AO proceeded to treat an amount of Rs.36,00,000/- as unexplained cash credit and made addition thereof to the total income of the assessee under section 68 of the Act and thereby framed the assessment under section 143(3) of the Act.

3. The assessee carried the matter before the Ld. CIT(A) by way of filing appeal who has confirmed the addition by dismissing the appeal for want of prosecution. Feeling aggrieved with the impugned order passed by the Ld. CIT(A) the assessee has come up before the Tribunal by way of filing present appeal.

4. We have heard the Ld. Authorised Representatives of the parties to the appeal, perused the orders passed by the Ld. Lower Revenue Authorities and documents available on record in the light of the facts and circumstances of the case and law applicable thereto.

5. At the very outset it is brought to the notice of the Bench by the Ld. A.R. for the assessee that the impugned order has been passed by the Ld. CIT(A) for want of prosecution by the assessee without deciding the merits, which fact has not been controverted by the Ld. D.R. for the Revenue.

6. Bare perusal of para 4 & 4.1 of the impugned order passed by the Ld. CIT(A) goes to prove that four notices are shown to have been issued to the assessee but on failure of the assessee to file any submission appeal has been dismissed for want of prosecution. We are alive to the fact that due to shifting from physical hearing to faceless hearing by the first appellate authority some technical glitches are there of which benefit of doubt must be given to the assessee that he might not have received the notices issued by the Ld. CIT(A). Even otherwise to decide the issue once for all and to stop the multiplicity of the proceedings the issue is required to be decided by the first appellate authority on merits after providing opportunity of being heard to the assessee. In these circumstances

the impugned order passed by the Ld. CIT(A) is not sustainable in the eyes of law, hence set aside to be decided afresh after providing opportunity of being heard to the assessee.

7. Resultantly, the appeal filed by the assessee is hereby allowed for statistical purposes.

**Order pronounced in the open court on 31.10.2023.**

**Sd/-  
(AMARJIT SINGH)  
ACCOUNTANT MEMBER**

**Sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER**

Mumbai, Dated: 31.10.2023.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.