

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

**ITA No.2574/Del/2023
[Assessment Year : 2017-18]**

J.C.B. Welfare Society, Near Bagla Nursing Home, Agra Chowk, Palwal, Haryana-121102. PAN-AAAAJ7547A	vs	ITO, Ward-1(3), Faridabad.
APPELLANT		RESPONDENT
Appellant by	Ms. Sweta Bansal, CA & Shri Sudharshan Roy, Advocate	
Respondent by	Shri Om Parkash, Sr.DR	
Date of Hearing	07.12.2023	
Date of Pronouncement	12.12.2023	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee is directed against the order passed by Ld.CIT(A), National Faceless Appeal Centre (“NFAC”), Delhi dated 30.05.2022 for the assessment year 2017-18.

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

1. *“Being aggrieved by the order under Section 250 made by Honorable Commissioner of Appeal, National Face Less Appeal Center (NFAC) of Income Tax Act in respect of*

<i>PAN:</i>	<i>AY:</i>	<i>Dated:</i>	<i>DIN & Order No.</i>
<i>AAAAJ7547A</i>	<i>2017-18</i>	<i>30/05/2022</i>	<i>ITRA/NFAC/S/250/2022- 23/1043252492(1)</i>

belongs to named J.C.B. WELFARE SOCIETY Addressed:- Near Bagla Nursing Home, Agra Chowk, Palwal 121102, Haryana Which is running JCB Modern Sr. Sec. School.

Whereas The Appellant aggrieved and preferred an appeal on the following grounds:

Grounds

- 1. That on the facts and circumstances of the case and in law the CIT(A), NFAC has erred in passing the impugned order ex-parte, without providing reasonable opportunity of being heard.*
- 1.1 That having passed an ex-parte order the CIT(A), NFAC was not justified in merely upholding the assessment order by not adjudicating the issues raised in appeal on merits.*
- 2. That the appellant denies his liability to be assessed at total income of Rs.11,75,500/-, accordingly denies its liability of tax and interest demanded thereon.*
- 3. That as per facts and circumstances of case the Ld. Assessing Officer as well as Commissioner of Income Tax (Appeal) was not justified for making an addition of Rs. 11,75,500/- U/s 144 of Income Tax Act, 1961.*
- 4. That Ld. Assessing Officer in making an addition of Rs. 11,75,500/- is bad in law and against the facts and circumstances of the case.*
- 5. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making addition of Rs. 11,75,500/- on account of cash deposit out of unexplained money u/s 69A of the Income Tax Act, 1961.*
- 6. That without prejudice to the above, addition if any, could not have been made u/s 69A of the Income Tax Act, as the provisions of the said section can only be applied for bringing to tax any unexplained money, bullion or jewellery which is not recorded in the books of accounts whereas on the facts of the present case the bank account in which cash is alleged to have been deposited is duly forming part of regular books of accounts.*

7. *That in any case and in any view of the matter Ld. CIT(A) has erred in law and on facts in not quashing the impugned assessment order passed by Ld. AO and in not deleting the impugned addition made by Ld. AO and the assessment order is not sustainable on various legal and factual grounds and more so as the same has been passed by recording incorrect facts and finding and without giving adequate opportunity of hearing to the assessee.*
8. *That the appellant craves the leave to add, alter, amend, modify any of the grounds of appeal at the time of hearing or before.*
9. *The detailed submissions shall be filed at the time of hearing before your honour.”*

3. The present appeal is barred by 46 days. Ld. Counsel for the assessee reiterated the submissions as made in the application seeking condonation of delay. An affidavit dated 25.10.2023 by Shri Krishan Sharma, Director of the J.C.B. Welfare Society on behalf of the assessee has been filed, stating that due to his illness, he could not file appeal in time. It is submitted by the assessee that delay was due to unavoidable circumstances.

4. Ld. Sr. DR for the Revenue opposed this submission of the assessee.

5. However, looking to the facts and evidences placed before me, I am of the considered view that there was reasonable cause for not filing the appeal on time. Therefore, the delay of 46 days is condoned and the appeal filed by the assessee is taken up for hearing for decision on merit.

6. Apropos to grounds of appeal, Ld. Counsel for the assessee at the outset, submitted that there was no effective representation before the Lower Authorities and the assessment order is passed *ex-parte* to the assessee. Further, he contended that the authorities below failed to appreciate the fact

that the cash deposited in the bank account related to the school fee collected by the society.

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

8. I have heard Ld. Authorized Representatives of the parties and perused the material available on record. It is seen from the record that there was no effective representation on behalf of the assessee before the Lower Authorities. The assessment was framed u/s 144 of the Income Tax Act, 1961 ("the Act") vide order dated 29.08.2019. Therefore, considering the facts available on record, I am of the considered view that the assessee ought to have been given sufficient opportunity to explain the facts. I therefore, set aside the impugned order and restore the matter to the Assessing Authority to make assessment afresh. Needless to say that the Assessing Officer ("AO") would provide adequate opportunity of hearing to the assessee. The assessee is directed not to seek adjournment without any reasonable cause and cooperate in the assessment proceedings. Grounds raised by the assessee are accordingly, allowed for statistical purposes.

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

Order pronounced in the open Court on 12th December, 2023.

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