

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

**ITA No.29/Del/2023
[Assessment Year : 2011-12]**

Shiksha Devi, 7G Sector-8, Jasola, New Delhi-110025. PAN-AGNPD3812E	vs	ITO, Ward-28(5), New Delhi.
APPELLANT		RESPONDENT
Appellant by	Ms. Shanu Khan, Advocate	
Respondent by	Shri Om Parkash, Sr.DR	
Date of Hearing	07.12.2023	
Date of Pronouncement	13.12.2023	

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 27.06.2022 for the assessment year 2011-12.

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

1. *“The CIT (Appeal) erred on facts by upholding the addition of Rs. 1175000/- made by Ld. AO without considering the fact that the cash deposited in the bank by the appellant was received by her from the legitimate sources which was nontaxable under the provision of Income Tax Act 1961.*
2. *The CIT (Appeal) erred on facts by upholding the addition of Rs. 1175000/- made by Ld. AO without considering the fact that only Rs. 1062500/- was deposited through cash in bank against the allegation of depositing Rs. 1175000/-.*
3. *The Appellant craves to add, alter, delete, modify or withdraw any of the above grounds of appeal.”*

3. The present appeal is barred by 130 days. Ld. Counsel for the assessee reiterated the submissions as made in the application seeking condonation of delay. An affidavit dated 29.12.2022 by Smt. Shiksha Devi, has been filed, stating that due to negligence and carelessness of his consultant, she could not file appeal in time. It is contented that the delay had been caused bonafide and the assessee has not obtained undue advantage. It is prayed by the assessee that the delay may be condoned.

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 in time. Therefore, the delay of 130 days is condoned and the appeal filed by the assessee is taken up for hearing.

6. The only effective ground raised in this appeal is regarding sustaining of addition of INR 11,75,000/- made on account of cash deposited in her bank account.

7. At the outset, Ld. Counsel for the assessee submitted that there was no effective representation on behalf of the assessee before the Lower Authorities. The Assessing Officer ("AO") passed impugned assessment order dated 15.12.2018 u/s 147/148 of the Act *ex-parte* to the assessee and even before Ld.CIT(A), there was no representation on behalf of the assessee. He prayed that in the interest of justice, matter may be restored to AO for making assessment afresh.

7. On the other hand, Ld. Sr. DR for the Revenue opposed these submissions and supported the orders of the authorities below. He contended that sufficient opportunity was given to the assessee.

8. I have heard Ld. Authorized Representatives of the parties and perused the material available on record. It is stated by the Ld. Counsel for the assessee that adequate opportunity should be granted to the assessee to represent her case. Therefore, to sub-serve the principle of natural justice, I am of the considered view that the assessee should be given reasonable opportunity of being heard. Thus, the impugned order is hereby, set aside and the assessment is restored to the AO for making assessment afresh after giving adequate opportunity of being heard. The assessee is directed not to seek adjournment without any reasonable cause and cooperate in the assessment proceedings. The AO would verify the veracity of the claim made by the assessee regarding source of cash deposited in his saving bank account. 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 13th 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