

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 2590/DEL/2023**  
**Assessment Year: 2017-18**

Ajit Jain, B-9/151, Sector-5, Rohini, Delhi-110085. PAN- AGIPJ1033A	<u>Vs</u>	Income-tax Officer, Ward-36(1), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Manish Uppal, Adv.	
<b>Respondent by</b>	Shri Om Parkash, Sr. DR	
<b>Date of hearing</b>	20.12.2023	
<b>Date of pronouncement</b>	20.12.2023	

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 20.07.2023, pertaining to the assessment year 2017-18. The assessee has raised following grounds of appeal:

*“1. That the impugned order in relation to addition of cash deposit is bad in law, illegal, unjustified, unreasonable, arbitrary, against the principal of natural justice and contrary to the facts and circumstances of the case and thus is liable to be set aside and quashed to this extent.*

*2. That the Ld. CIT(A) has failed to provide the reasonable opportunity of being heard to the assessee in as much as only two quick notices, after a considerable delay of two years, were issued for submission to the assessee. These notices were dated 23.06.2023 and 07.07.2023 and were sent through e-portal and e-mail and not by postal means, the said notices went un-*

*noticed by the assessee, which had the same been acquainted to assessee, the assessee would have duly replied. Further the above notices were sent solely to the primary email addresses of the assessee and did not sent to the secondary email address, i.e. carahulsinghal@gmail.com though this email address was mentioned in the impugned order by the Ld. CIT(A).*

*3. That both the Ld. AO and CIT(A), in the facts and circumstances of the Case, arbitrarily, erroneously, without any coherent and cogent finding, in absence of any adverse material on record, on surmises and conjectures, on generalised assumption of considering the cash deposited during demonetization period being unexplained money, without the existence of any specific applicable law in treating the said cash deposit as unexplained money, without considering the nature of business and financials of assessee, made addition of cash deposit totalling Rs. 26,90,000 under section 69A, whereas the said cash deposited in fact was out of the sales proceeds which have already been credited to the Profit and Loss account and thus cannot be doubly added to the Income of the assessee.*

*4. That both the Ld. AO and CIT(A) has grossly erred in making addition of such cash deposit u/s 69A in as much as the said section covers only such monies to which assessee is found owner thereof, whereas the has himself deposited the said cash in bank and thus the test of found fails in the instant case.*

*5. That the Ld. AO and CIT(A) has grossly erred in making addition of such cash deposit u/s 69A in as much as the said section covers only such monies which are not recorded in the books of account, whereas in fact the said cash since was out of sale proceeds which were duly recorded in books of accounts and disclosed in profit & loss account.*

*6. The Appellant craves leave to add, amend, alter vary and / or withdraw any or all the above grounds of Appeal and all the above grounds are without prejudice to each other.”*

2. Facts, in brief, are that for A.Y. 2017-18 the assessee filed its return declaring income of Rs. 4,59,180/-. The case of the assessee was selected for scrutiny under CASS and the assessment u/s 143(3) of the Income-tax Act, 1961 (the “Act”) was completed vide order dated 14.12.2019 at Rs. 33,64,170/- by making addition of Rs. 26,90,000/- U/s 69A of the Act on account of unexplained

cash deposits in his bank account during demonetization period and Rs. 2,14,990/- out of expenses claimed in the P&L A/c. Aggrieved against it the assessee preferred appeal before the learned CIT(Appeals), who dismissed the appeal by confirming the action of the AO. Aggrieved, the assessee is in appeal before this Tribunal.

3. Apropos to the grounds of appeal, learned counsel for the assessee submitted that the cash deposited in the bank account was out of sale proceeds, duly recorded in the books of account and disclosed in the P&L account. The AO made the impugned addition without providing adequate opportunity to the assessee to adduce evidences in support of its claim. He submitted that in appeal no adequate opportunity was provided by the learned CIT(A) to explain his case as the notices sent through e-portal and e-mail went un-noticed by the assessee. He prayed to remit the matter to the file of AO for assessment afresh after affording adequate opportunity to the assessee to adduce evidence in support of his case.

4. On the other hand, learned DR opposed the submissions and supported the orders of authorities below.

5. I have heard rival submissions and perused the material available on record. Considering the submissions made on behalf of the assessee that the impugned case deposit was out of sale proceeds and the assessee was not provided adequate opportunity to prove his case, I am of the considered view that in the interest of principles of natural justice, the assessee should be given an opportunity to prove his case before the Assessing Officer. Accordingly, I hereby set aside the orders of authorities below and restore the matter to the file of AO for assessment afresh after providing adequate opportunity to the assessee of being heard and to adduce

evidences, if any, in support of his case. Grounds of appeal are allowed for statistical purposes.

6. Appeal of the assessee stands allowed for statistical purposes only.

Order pronounced in open court on 20.12.2023.

**Sd/-  
(KUL BHARAT)  
JUDICIAL MEMBER**

**\*MP\***

Copy forwarded to:

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

**ASSISTANT REGISTRAR  
ITAT, NEW DELHI**