

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'SMC': NEW DELHI**

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

**ITA No.3153/DEL/2023
[Assessment Year: 2017-18]**

Prateek Jain, 4634, Gali Mohar Singhjat, Phaari Dhiraj, Delhi-110006	Vs	ITO, Ward-63(2), Civic Centre Delhi-110002
PAN-AIYPJ1226D		
Assessee		Revenue

Assessee by	Shri Gurjeet Singh, CA
Revenue by	Sh. Om Prakash, Sr. DR

Date of Hearing	06.02.2024
Date of Pronouncement	13.02.2024

ORDER

This appeal by the assessee is against the order of National Faceless Appeal Centre/learned Commissioner of Income Tax (Appeals), Delhi, dated 07.09.2023, pertains to Assessment Year 2017-18.

2. The grounds of appeal reads as under:-

1. Because the action for initiation, continuation and conclusion of assessment proceedings u/s 143(3) at an amount of Rs 37,66,680/- is being challenged on facts and law.

2. Because the action of CIT(A)-NFAC is being challenged on facts and law for not providing reasonable opportunity of being heard. The assessment order being passed is in violation of the principle of natural justice and without giving adequate time and opportunity to the appellant to present the case.

3. Because the action of CIT(A)-NFAC is being challenged on facts and law for making addition of Rs. 28,50,000/- u/s 69A on account of cash deposit in bank accounts during demonetization period whereas per assessee the cash deposit in bank is cash sale/amount received from debtors which are duly shown in VAT returns.

4. Because the action is being challenged on facts and law for making addition of Rs.28,50,000/- u/s 69A on account of cash deposit in bank accounts during demonetization period whereas per assessee addition has been made on surmises and conjectures without there being any direct material on record.

5. For any consequential relief and /or legal claim arising out of this appeal and for any addition, deletion, amendment and modification in the grounds of appeal before the disposal of the same in the interest of substantial justice to the assessee.”

3. In this case, the Assessing Officer made an addition of Rs.28,50,000/- on account of unexplained money u/s 69A of the Act being the cash deposit in the bank account during the demonetization period

4. Upon assessee's appeal, the learned CIT(A) noted that after a number of opportunity, the assessee has not responded, hence, he held that the assessee was not interested in pursuing the appeal. Therefore, he dismissed the appeal without going into merits of the case.

5. Against this order, the assessee is in appeal before the Tribunal.

6. I have heard both the parties and perused the material available on record. I find that the learned CIT(A) has not passed any order on

merits of the case. He has simply dismissed the appeal for non-prosecution. Section 251 of the Act does not give such any power to learned CIT(A). Hence, in the interest of justice, I remit this issue to the file of the learned CIT(A). The learned CIT(A) is directed to consider the issue afresh and pass a speaking order on the merits of the case after giving the assessee proper opportunity of being heard.

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

Order pronounced in the open court on 13th February, 2024.

Sd/-
[SHAMIM YAHYA]
ACCOUNTANT MEMBER

Delhi/Dated 13.02.2023.

Shekhar,

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi