

आयकर अपीलीय अधिकरण, कोलकाता पीठ “ए”, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA
श्री संजय गर्ग, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष
[Before Shri Sanjay Garg, Judicial Member & Shri Rajesh Kumar, Accountant Member]

I.T.A. No. 1052/Kol/2023
Assessment Year: 2017-18

Balaji Jewels (PAN: AAMFB 7700 L)	Vs.	ITO, Ward-32(1), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	09.01.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	19.02.2024
For the Appellant/ निर्धारिती की ओर से	Shri Sunil Surana, FCA
For the Respondent/ राजस्व की ओर से	Shri B. K. Singh, JCIT, Sr. D.R

ORDER / आदेश

Per Rajesh Kumar, AM:

This is the appeal preferred by the assessee against the order of the Ld. Ld. Commissioner of Income Tax (Appeal)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)"] dated 28.08.2023 for the AY 2017-18.

2. At the outset Ld. Counsel submitted that the case of the assessee remained unrepresented before both the authorities below and therefore both the authorities below have decided the issue without hearing the assessee on merit. The Ld. A.R

submitted that in the interest of justice and fair play, the case may be restored to the file of the AO with the direction to decide the same on merit after affording a reasonable opportunity of hearing to the assessee.

3. The Ld. D.R on the other hand did not oppose the arguments of the Ld. A.R and left the issue to the wisdom of the Bench.

4. After hearing the rival contentions and perusing the material on record, we find that the issue in this case is in respect of cash deposit of Rs. 75 Lakhs in bank account no. 09020200000980 with Bank of Baroda, Camac Street Branch during the demonetization period. The assessee has not appeared before the AO as well as the Ld. CIT(A). Consequently the AO as well as the Ld. CIT(A) decided the issue without taking into account the merit of the case as the assessee has not filed any evidences or written submission before both the authorities. Accordingly we are of the view that the ends of justice would be met if the issue is restored to the file of AO. Accordingly we set aside the order of Ld. CIT(A) and restore the file to the AO to decide the same de novo after affording reasonable opportunity of hearing to the assessee.

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

Order is pronounced in the open court on 19th February, 2024

Sd/-
(Sanjay Garg /संजय गर्ग)
Judicial Member/न्यायिक सदस्य

Sd/-
(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

Dated: 19th February, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Balaji Jewels, 29/H/8, Canal South Road, 2nd Floor, Kolkata-700015
2. Respondent – ITO, Ward-32(1), Kolkata
3. Ld. CIT(A)-NFAC, Delhi
4. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata