

THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "SMC" BENCH

**Before: Ms. Suchitra Kamble, Judicial Member**

**ITA No. 855/Ahd/2023  
Assessment Year 2017-18**

Nileshkumar Shantilal Patel, Fursadpura, Lasundra Kathlal, Kheda-387640 PAN: BIDPP1695N (Appellant)	Vs	The Income Tax Officer, Ward-3, Nadiad (Respondent)
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**Assessee by: Shri Jimi Patel, A.R.**  
**Revenue by: Shri Sanjay Jain, Sr. D.R.**

Date of hearing : 08-04-2024  
Date of pronouncement : 12-04-2024

**आदेश/ORDER**

This is an appeal filed against the order dated 05-12-2023 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2017-18.

2. The grounds of appeal are as under:-

*"1 THE LEARNED CIT(APPEAL)-INCOME TAX DEPARTMENT WRONGLY CONFIRMED THE ORDER OF AO.*

*2 THE LEARNED CIT(A) HAS GRIEVOUSLY ERRED IN LAW AND ON FACTS IN CONFIRMING AN ADDITION OF R5 12,12,000 BEING AGGREGATED OF CASH DEPOSITED IN VARIOUS BANKS DURING DEMONETIZATION PERIOD WHILE INVOKING THE PROVISIONS OF SECTION 69A OF THE*

*ACT MERELY ON SURMISES AND ASSUMPTIONS AND WITHOUT PROPER CONSIDERATION OF FACTS OF THE APPELLANT'S CASE AND NATURE OF BUSINESS CARRIED OUT BY HIM.*

*IN VIEW OF THE FACTS OF THE CASE AS WELL AS SUBMISSIONS AND EVIDENCE FILED, THE IMPUGNED ADDITION OF RS. 12,12,000/- REQUIRES TO BE DELETED.*

*3. THE LD. CIT (A) HAS FAILED TO APPRECIATE THE FACT THAT THE APPELLANT IS A FARMER AND HIS SOURCE OF INCOME IS FROM SALE OF MILK AND AGRICULTURE INCOME AND THAT THE CASH DEPOSITS OF AGGREGATING TO RS. 12,12,000/- IN THE BANK ACCOUNT REPRESENTS AMOUNT RECEIVED ON SALE OF MILK AND AGRICULTURE INCOME AS EVIDENT FROM EVIDENCE FILED. THE IMPUGNED ADDITION THUS BEING WITHOUT PROPER VERIFICATION AND WITHOUT CONSIDERATION OF FACTS OF THE CASE IS WHOLLY UNJUSTIFIED AND BAD IN LAW AND REQUIRES TO BE DELETED.*

*4 THE LD. AO HAS ALSO ERRED IN INITIATING PENALTY PROCEEDINGS U/S 271AAC OF THE ACT AND APPLYING THE SPECIAL RATE OF TAX AS PER SECTION 115BBE OF THE ACT.*

*YOUR APPELLANT CREAVES, LEAVE, TO ADD AND OR MODIFY THE ABOVE GROUNDS ON OR BEFORE THE DATE OF FINAL HEARING."*

3. The notice u/s. 142(1) issued on 12-03-2018 calling the assessee to prepare a true and correct return of income in respect of which the assessee is assessable under the Income Tax Act, 1961 during the previous year relevant to assessment year 2017-18. The assessee failed to furnish return of income either u/s. 139 and failed to file any response to notice u/s. 142(1) of the Act. The Assessing Officer observed that during phase of online verification under operation clean money, the assessee has aggregated the deposited money in cash of Rs. 12,12,000/- in his bank account with HDFC bank Rs. 8,63,000/-, HDFC, Kapadwanj branch Rs. 97,500/- and Dena Bank Rs. 2,51,500/- during the demonetization period i.e. 9<sup>th</sup> November, 2016, 31<sup>st</sup> December, 2016. The assessee filed response to the show cause notices and after taking cognizance for the same, the Assessing Officer observed that the deposit during demonetization period of Rs. 12,12,000/- should be treated as unexplained money deposited in bank

from undisclosed sources u/s. 69A of the Income Tax Act and thus made addition of Rs. 12,48,878/-.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The ld. A.R. submitted that the assessee being agriculturist was not very much aware of the show cause notice issued by the CIT(A) and therefore the order of the CIT(A) is ex-parte and therefore the matter may be remanded back to the file of the CIT(A) for appropriate adjudication of the issues contested by the assessee on merit.

6. The ld. D.R. relied upon the assessment order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant materials available on record. It is pertinent to note that the CIT(A) without taking cognizance of the submissions and the details filed by the assessee has simply passed ex-parte order without discussing the merits of the case and therefore it will be appropriate to remand back this matter to the file of the CIT(A) for proper adjudication of the issues contested by the assessee therein on merit. Needless to say, the assessee be

given opportunity of hearing by following the principles of natural justice.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 12-04-2024

**Sd/-**  
**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

**Ahmedabad : Dated 12/04/2024**

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद