

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.521/Bang/2024
Assessment Year: 2017-18

Chandra Shekhar Chikkamagaluru Jayaram Milk Merchant Shanti Nilaya Agrahara Cross Road Chikkamagalur 577 101 Karnataka PAN NO : ALAPJ9159L	Vs.	ITO Ward-1 Chikkamagalur
APPELLANT		RESPONDENT

Appellant by	:	Sri H. Guruswamy, A.R.
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel for Department

Date of Hearing	:	22.04.2024
Date of Pronouncement	:	22.04.2024

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal by assessee is directed against the order of NFAC for the assessment year 2017-18 dated 22.12.2023. The assessee raised following grounds:

- 1. The impugned order u/s 250 of the Act dated 22.12.2023 passed by the CIT(A), National Faceless Appeal Centre, Delhi is opposed to law, facts and circumstances of the case.*
- 2. The ld. CIT(A) has erred in confirming the addition of Rs.26,00,000/- made by the AO u/s 69 of the Act ex-parte without appreciating the facts and circumstances of the case.*
- 3. The ld. CIT(A) has erred in confirming the addition of Rs.26,00,000/- made by the AO in the ex-parte appellate order without providing sufficient opportunity for submission of the details.*

4. *The Id. CIT(A) has erred in confirming the cash deposited into the bank as income in the exparte appellate order without appreciating the fact that the cash deposits so made were out of the previous withdrawals.*
5. *The appellant craves leave to add, alter, amend and delete any of the grounds at the time of hearing*

2. There was a delay of 28 days in filing the appeal before this Tribunal. The assessee explained the delay by way of an affidavit accompanied with petition for condonation of delay stating that the order was passed on 22.12.2022, which was handed over to Shri Dayanand, the Auditor who has been handling regularly the Income Tax matters and the Counsel, to whom the filing of appeal was assigned has not filed the appeal in time against the appellate order and the said auditor has directed the assessee to engage a new counsel at Bangalore and returned the appeal papers and immediately the assessee has engaged a new counsel at Bangalore for filing the appeal. Thus the assessee submitted that the delay was attributable to the professionally qualified auditor based at Chikkamagaluru. Therefore, the assessee submitted that the delay of 28 days in filing the appeal is neither deliberate nor intentional. Thus, the assessee was prevented by sufficient cause in not filing the appeal within the prescribed time limit.

3. We have heard both the parties with regard to condonation of delay. We find good and sufficient reason in filing the appeal belatedly before this Tribunal. In our opinion, the short delay of 28 days is required to be condoned in the interest of justice. Accordingly, the short delay of 28 days is condoned and the appeal is allowed for adjudication.

4. Facts of the issue are that the assessment order was completed u/s 144 of the Income Tax Act, 1961 (in short "The Act") making addition of Rs.26 lakhs towards unexplained investment by way of investment into bank account. Since the assessment was framed exparte, the assessee went in appeal before Id. CIT(A). The Id. CIT(A)

given a notice to the assessee on 26.7.2021, 2.11.2023 & 1.12.2023. However, there was no response from the assessee. Hence, the NFAC observed that the assessee is not interested to produce necessary evidence inspite of giving sufficient opportunities to produce the same. Hence, NFAC taken an adverse view of the matter and decided the issue against the assessee. Once again assessee is in appeal before us.

5. Before us, ld. A.R. primarily pleaded that both the orders i.e. assessment order as well as appeal order were passed ex-parte. Hence, prayed that one more opportunity may be given in the interest of justice and also submitted that assessee is not well versed in the income tax portals, as such, assessee was not able to participate before the lower authorities.

5.1 We have heard the rival submissions and considered the request of the ld. A.R. Being so, in the interest of justice, it is appropriate to give one more opportunity to the assessee. Accordingly, the entire issue in dispute is remitted to the file of ld. AO to pass speaking order after giving an opportunity of being heard to the assessee.

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

Order pronounced in the open court on 22nd Apr, 2024

Sd/-
(Keshav Dubey)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 22nd Apr, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,
ITAT, Bangalore.**