

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD " C " BENCH**

**Before: Shri Waseem Ahmed, Accountant Member  
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No:971/Ahd/2023  
Assessment Year: 2017-18**

Ajaykumar Jashvantlal Shah A/2, Vasu Appartment Paliyad Nagar, Naranpura, Ahmedabad-380013. <b>PAN: ABJPS1271K</b>  <b>(Appellant)</b>	Vs	The Income Tax Officer, Ward-2(2)(1), Ahmedabad  <b>(Respondent)</b>
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**Assessee Represented: Shri M.S Chhajer, AR**

**Revenue Represented: Shri Ashok Kumar Suthar, SR-DR**

Date of hearing : 14-03-2024

Date of pronouncement : 08-05-2024

**आदेश/ORDER**

**PER T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

This appeal is filed by the assessee as against the ex-parte order dated 06.10.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "Ld.NFAC" for short] arising out of the assessment order passed u/s.143(3) of the Income-Tax Act, 1961 [hereinafter referred to as "the Act" for short] relating to the Assessment Year (AY) 2017-18.

2. Brief fact of the case is that the assessee is an individual deriving Income from salary and other sources. For the Asst. Year 2017-18, the assessee filed its Return of Income on 27.09.2017,

declaring total income of Rs.4,90,720/-. The Return of Income was taken for scrutiny assessment on account of cash deposits made by the assessee during Demonetization period in Canara Bank and Kankaria Maninagar Nagrik Sahakari Bank Ltd. of Rs.28,90,000/- and also cash deposited during the whole year amounting to R.2,54,02,200/-. The assessee explained the source of cash deposits as well as cash withdrawals during the above period. However, the same was not accepted by the AO and treated cash deposits of Rs.2,54,02,200/- as unexplained money u/s. 69A of the Act and also invoked the provisions of section 115BBE of the Act and demanded tax thereon.

3. Aggrieved against the assessment order the assessee filed an appeal before the "NFAC". The "Ld.NFAC" had given five opportunities to the assessee, wherein the assessee sought for adjournment in the first two hearings and there was no response in the remaining three hearings. Hence, the "Ld.NFAC" passed ex-parte appellate order confirming the addition made by the AO.

4. Aggrieved against the same, the assessee is in appeal before us, raising the following grounds of appeal:

1. The order passed by the Ld.CIT(A) is against law, equity & justice.
2. The order passed by the Ld.PCIT is against principle of natural justice as no opportunity of video conferencing was provided inspite of specific request.
3. The Ld.CIT(A) has erred in law and on facts in making addition U/s.69A of the Act of Rs.2,54,02,200/- of cash deposited in bank.
4. The Ld.CIT(A) has erred in law and on facts in invoking section 115BBE of the Act when transaction is occurred prior to insertion of provision on statue.

5. The appellant craves liberty to add, amend, alter or modify all or any grounds of appeal before final appeal.

5. The Ld.Counsel Shri M.S Chhajed, appearing for the assessee submitted before us a paper book running to 28 pages, wherein the copies of the bank accounts namely Canara Bank and Kankaria Maninagar Nagrik Sahakari Bank Ltd and cash book of the assessee and other details. The Ld.Counsel also submitted the opening cash balance, cash deposits, cash withdrawals, drawing other expenses, other receipts and closing cash balance in the above bank accounts from the Asst. Year 2011-12 to 2017-18 and pleaded that the AO is not correct in adding entire cash deposits as unaccounted cash u/s.69A of the Act, and in its support relied upon the various case Laws. Thus, the Ld.Counsel pleaded to allow the appeal filed by the assessee.

6. Per Contra, Ld.CIT-DR, Shri A.K Suthar, appearing for the Revenue submitted the assessee has not filed the above details before the "Ld.NFAC" in-spite of the five opportunities given to the assessee. Therefore, in the interest of Justice the case may be set-aside to the file of the "Ld.NFAC" to pass order on merits.

7. We have given our thoughtful consideration and perused the materials available on record including the paper book filed by the assessee. Since the "Ld.NFAC" dismissed the appeal as ex-parte and the assessee produced relevant materials before us by way of paper book, we deem it fit to set-aside the matter back to the file of the "Ld.NFAC" and pass order on merit by giving proper opportunity of hearing. Needless to say, that the assessee should co-operate by

filing all the necessary details before the “Ld.NFAC” for passing fresh appellate order. Hence, the appeal filed by the assessee is allowed for the statistical purposes.

8. In the result, the appeal filed by the assessee is allowed for the statistical purposes.

**Order pronounced in the open court on 08-05-2024**

**Sd/-  
(WASEEM AHMED)  
ACCOUNTANT MEMBER**

**Sd/-  
(T.R. SENTHIL KUMAR)  
JUDICIAL MEMBER**

**Ahmedabad : Dated 08/05/2024**  
(True Copy)

*Manish*