

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

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND  
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

|                           |
|---------------------------|
| ITA No.647/Bang/2024      |
| Assessment Year : 2017-18 |

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| Shri. Sonnappa Srirama,<br>No.23, Ground Floor, 8 <sup>th</sup> Cross,<br>Kaggadaspura, C. V. Raman Nagar Post,<br>Bengaluru – 560 093.<br><b>PAN : CYJPS 8049 E</b> | Vs. | ITO,<br>Ward – 4(2)(3),<br>Bengaluru. |
| APPELLANT  |     | RESPONDENT                            |

|             |   |  |
|-------------|---|--|
| Assessee by | : | Shri. Gopi Krishna, CA                                 |
| Revenue by  | : | Shri. Ganesh R Ghale, Standing Counsel for Department. |

|                       |   |            |
|-----------------------|---|------------|
| Date of hearing       | : | 11.06.2024 |
| Date of Pronouncement | : | 11.06.2024 |

**ORDER**

***Per George George K, Vice President:***

This appeal at the instance of the assessee is directed against the order of CIT(A) dated 18.12.2023, passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Year is 2017-18.

2. The grounds raised read as follows:

1. *That the order of the learned Commissioner of Income-Tax (Appeals) is in so far it is prejudicial to the interest of the appellant is bad and erroneous in law and against the facts and circumstances of the case.*

2. *That the learned Commissioner of Income-Tax (Appeals) erred in law and on facts in deciding the appeal ex-parte without considering the merits of the case.*
3. *That the learned Commissioner of Income-Tax (Appeals) erred in law and on facts in passing the ex-parte order without considering the fact that the cash deposits are made out of the cash sales made during the A.Y 2017-18.*
4. *That the learned Commissioner of Income-tax (Appeals) erred in law and on facts in deciding the appeal ex-parte on the ground that the appellant did not respond to the hearing notices and such finding is perverse as the appellant has sought adjournment.*
5. *That the learned Commissioner of Income-tax (Appeals) erred in law and on facts in not appreciating the fact that the faceless appeal scheme was newly introduced and therefore, the appellant was not aware of the procedure that all the hearing notices will be issued only to the assessee's registered email ID and therefore, could not file all the responses.*
6. *That the learned Commissioner of Income-tax (Appeals) ought to have held that levying tax at 60% u/s.115BBE of the Act is not applicable for the deposits made prior to 15.12.2016.*
7. *Each of the above grounds is without prejudice to one another and the appellant craves leave of the Hon'ble Income Tax Appellate Tribunal, Bangalore to add, delete, amend or otherwise modify one or more of the above grounds either before or at the time of hearing of this appeal.*

3. There is a delay of 52 days in filing this appeal. Assessee has filed a petition for condonation of delay accompanied by an affidavit stating therein the reasons for late filing of this appeal. We have perused the reasons stated in the affidavit for belated filing of this appeal. We are of the view that there is reasonable cause and no laches can be attributed to the assessee for belated filing of this appeal. Hence, we condone the delay of 52 days in filing this appeal and proceed to dispose off the same on merits.

4. Brief facts of the case are as follows:

Assessee, an individual, is a proprietor of M/s. Sannhitha Enterprises. For the Assessment Year 2017-18, the return of income was filed declaring income of Rs.5,13,820/-. Assessment was selected for scrutiny under CASS for the reason of cash deposits made during the demonetization period and abnormal increase in sales and decrease in profitability compared to the preceding years. Since there was no response to the various notices issued, the entire cash deposit made during the demonetization period was added to the total income amounting to Rs.16,82,850/- under section 69A of the Act.

5. Aggrieved by the Order of the Assessment completed, assessee preferred appeal before the First Appellate Authority (FAA). During the course of appellate proceedings, assessee was issued notice to file evidence / written submission in support of the grounds raised in Form No.35. However, the assessee without providing the necessary material had merely sought adjournment before the FAA. The CIT(A) dismissed the appeal of the assessee for statistical purposes by restoring the matter to the AO giving assessee the final opportunity to explain the source of cash deposit.

6. Aggrieved by the Order of the CIT(A), assessee has filed the present appeal before the Tribunal. Assessee has filed a Paper Book enclosing therein the application for admission of additional evidence. The learned AR submitted that additional evidence may be taken on record and the matter may be remanded to the AO.

7. The learned Standing Counsel submitted that the CIT(A) had in fact had given relief to the assessee by restoring the matter to the AO to explain the source

of cash deposit. Therefore, it was submitted that this appeal instituted by the assessee does not call for relief.

8. We have heard the rival submissions and perused the material on record. The CIT(A) has not outrightly rejected the appeal of the assessee. The CIT(A) has provided one more opportunity to the assessee to explain the source of cash deposit before the AO. The relevant finding of the CIT(A) at page 7 of the impugned order reads as follows:

*“Hence, the request of the appellant cannot be granted. It is also to be noted that the appellant has not furnished any documentary evidence in support of grounds of appeal. Hence, even the remand report also cannot be called for from the AO. However, keeping in view the principles of natural justice, in this particular scenario, I am of the view that the appellant needs to be given an opportunity of being heard before the AO before finalizing the addition made in the assessment order. Hence, the AO is directed to accord one opportunity to the appellant to furnish any documentary evidence to prove/explain the sources for the cash deposits made in the bank account. The appellant is also directed to furnish any documentary evidence to prove/explain the sources for the cash deposits made in the bank account before the AO within the stipulated time to be mentioned by the AO. The appellant should note that if he fails to furnish any documentary evidence then the AO cannot give relief to the appellant. If the appellant explains the sources the AO may decide the issue on merits after considering the documentary evidence, if any, submitted by the appellant. In case, the appellant fails to explain the sources before the AO, then the addition made by the AO in the assessment order stands confirmed.”*

9. In light of the above direction of the CIT(A), we fail to understand why this appeal has been instituted by the assessee. The assessee shall be at liberty to place all the necessary evidences since the issue raised in this appeal has already been restored to the AO. It is ordered accordingly.

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

*Pronounced in the open court on the date mentioned on the caption page.*

**Sd/-**

**(WASEEM AHMED)**  
**Accountant Member**

**Sd/-**

**(GEORGE GEORGE K)**  
**Vice President**

Bangalore.

Dated: 11.06.2024.

/NS/\*

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|---------------|-------------------------|
| 1. Appellants | 2. Respondent           |
| 3. DRP        | 4. CIT                  |
| 5. CIT(A)     | 6. DR, ITAT, Bangalore. |
| 7. Guard file |                         |

By order

Assistant Registrar,  
ITAT, Bangalore.