

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D', NEW DELHI**

**BEFORE DR. B.R.R. KUMAR, ACCOUNTANT MEMBER
AND
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.841/Del/2022
Assessment Year: 2017-18

Nitin Bhanudas Shingate C/o CA Piyush Bafina 2, Klassic Row House, Khandwe Nagar Kalwad Vasti Lohegaon Road, Behidn Pune Airport Pune, Maharashtra, 411032 PAN No.BPIPS7627P	Vs.	DCIT Circle -1 (1) (1) Int. Tax. New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Akash Parakh, Advocate
Respondent by	Sh. Amaninder Singh Dhindsa, SR. DR

Date of hearing:	06/06/2024
Date of Pronouncement:	19/06/2024

ORDER

PER SUDHIR KUMAR, JM:

This appeal by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), Delhi-4 [hereinafter referred to as "CIT(A)] vide order dated 07.03.2022 pertaining to A.Y. 2017-18 and arises out of the assessment order dated 12.12.2019 under section 144 of the Act [hereinafter referred as 'the Act'].

2. Aggrieved by the order of the lower authorities, the assessee is in appeal before us by raising the following grounds:-

1. *On the facts and in the circumstances of the case and in law, Ld. CIT-Appeal (National Faceless Appeals Centre) has erred in upholding the assessment order passed under section 144 dated 12-12-2019 which was otherwise bad-in-law and hence, should have been quashed.*

2. *On the facts and in the circumstances of the case and in law and without prejudice to other grounds, the addition of Rs.10,00,000 made u/s.69A read with section 115BBE of I.T. Act, 1961 is bad in law and hence, the same may please be quashed.*

3. *On the facts and in the circumstances of the case and in law and without prejudice to other grounds, Ld. CIT-Appeal (National Faceless Appeals Centre) has erred in sustaining the addition of Rs.10,00,000/- without properly appreciating the submission made by the appellant.*

4. *The appellant craves leave to add, amend, alter, modify or not press any grounds of appeal in the interest of justice.*

3. The assessee has raised the following additional ground of appeal :-

“1. On the facts and in the circumstances of the case and in law and without prejudice to other grounds, the addition made u/s. 69A of the I.T. Act, 1961 is without jurisdiction since the assessee is a non-resident during the year under consideration who is not required to maintain

the books of accounts and hence, section 69A is not applicable in the present case and therefore, the impugned addition of Rs.10,00,000/- made u/s. 69A is without jurisdiction deserving to be deleted.”

2. The brief fact of the case is that on the basis of data analytics and information gathered during the phase of online verification under ‘Operation Clean Money’ that the assessee had deposited in cash Rs.10,00,000/- during the period 09.11.2016 to 30.12.2016 in his bank account with bank of Maharashtra. As no return of income had been filed, notice u/s. 142(1) was issued but there was no compliance by the assessee. Thereafter, multiple notices u/s.142(1) and show cause notice were issued as tabulated in para 4 of the Assessment order. The assessee has failed to furnish any details relating to business activities under taken by the assessee, nature of Income earned, details of bank accounts, details of cash deposits made in the bank accounts, sources of cash deposits, details of cash deposits made during the year under consideration. AO has assessed the income Rs 10,00,000/-and penalty notice was issued to the assessee. Aggrieved by the order of the AO the assessee has filed the appeal before the Ld CIT(A) which was dismissed by order dated 07-03-2022 .

3. The Ld. Counsel for the assessee has filed an additional ground which goes to the root of the matter and submitted that the addition made u/s.69A of the I.T. Act, 1961 is without jurisdiction since the assessee is a non-resident during the year under consideration who is not required to maintain the books of accounts and hence, section 69A is not applicable in the present case and therefore, the impugned addition of Rs.10,00,000/- made u/s.69A is without jurisdiction deserving to be deleted. The assessee be given a relevant opportunity to pursue his case before the Assessing Officer with relevant documentary evidences.

4. Per contra the DR fairly conceded to this. He submitted that assessee has failed to explain the source of cash deposit. The Ld CIT(A) thereafter for the reasons noted in the order has dismissed the appeal. Therefore he submitted that the order of CIT(A) be upheld.

5. We have given a thoughtful consideration to the submission of the Counsel. We are of the considered opinion that an opportunity needs to be given to the assessee to represent his case afresh with relevant documentary evidence. Therefore, in the interest of justice and fair play we restore the issue on the file of the AO to be decided afresh after affording a reasonable and sufficient opportunity of being heard to the assessee.

6. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 19.06.2024.

Sd/-
(DR. B R R KUMAR)
ACCOUNTANT MEMBER

NEHA, Sr. PS

Date:- .06.2024

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(Appeals)
- 5.DR: ITAT

Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI