

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH, AHMEDABAD**

BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA No.614/Ahd/2024
Assessment Year: 2017-18**

Ravjibhai Amrabhai Ahir, Kishantractors & Agrl Corporation, Near Marketing Yard, Lunawada Road, Tal Shahera, Dist. Panchmahal – 389 001 Gujarat [PAN – AOCPA 1366 F]	Vs.	The Income Tax Officer, Ward – 4(1)(10), Vadodara.
(Appellant)		(Respondent)
Assessee by	Shri Sulabh Padshah, AR	
Revenue by	Shri Purushottam Kumar, Sr. DR	
Date of Hearing	12.06.2024	
Date of Pronouncement	20.06.2024	

ORDER

This appeal is filed by the assessee against order dated 28.12.2023 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2017-18.

2. The assessee has raised the following grounds of appeal :-

“Your appellant being aggrieved by the order passed by the Ld. Commissioner of Income-tax (Appeals) (herein after referred to as 'Ld. CIT (Appeals), Income tax Department. National Faceless Appeal Centre (NFAC) u/s 250 of the Act presents this appeal against the same on the following amongst other grounds:

- 1. The Learned CIT (Appeals) has erred in passing an Ex-parte order and dismissing the appeal of the Appellant without considering adjournment request filed during Appellate Proceeding. On facts and circumstances of the case, it is prayed before your honour that the matter please be set aside to CIT(A) to decide issue involved on merits in the interest of justice. The same please be held accordingly.*

2. *The Learned CIT (Appeals) has erred in confirming the addition made of Rs.41,41,000/- towards cash deposits treating the same Unexplained money u/s 69A of the Income Tax Act. It is submitted that the necessary details and explanations were filed during assessment proceeding towards cash deposits made and but the same could not be filed before CIT(A) because of ex-parte order passed. On the facts and circumstances of the case, it is prayed before your honour that Learned CIT (Appeals) may please be directed to hear the appellant again along with all the details and evidences available and the addition made of Rs.41,41,000/- be deleted. The same be held accordingly.*
3. *The Learned Asst Unit has erred in invoking the provisions of Section 69A of the Act while making the addition of Rs.41,41,000/- towards cash deposits made for the year. It is submitted that the cash deposits made during the year were duly recorded in books of accounts and therefore the provisions of Section 69A of the Act are just not attracted in case of Appellant. It is therefore submitted that the action of lower authorities invoking the provisions of Section 69A of the Act is completely illegal and unjustifiable and thus the entire addition made of Rs.41,41,000/- be deleted in interest of justice.*
4. *The Order passed by the learned CIT(A) is bad in law and contrary to the provisions of law and facts. It is submitted that the same be held so now."*

3. The assessee by profession is an Advocate and also engaged in the Agency Business of Farm Equipment like Tractors in the name and style of proprietary concern M/s. Krishn Tractors at Shahera. The assessee filed return of income on 10.10.2017 declaring total income at Rs.6,05,998/-. The case was selected for complete scrutiny and statutory notices were issued and served upon the assessee. The Assessing Officer observed that the assessee deposited huge cash to the tune of Rs.41,41,000/- in various bank accounts. The assessee could not explain the same before the Assessing Officer and, therefore, the Assessing Officer made addition of Rs.41,41,000/- on account of unexplained cash deposit under Section 69A of the Income Tax Act, 1961.

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. AR submitted that there is a delay of 38 days in filing the present appeal for which the assessee has filed the detailed application explaining the delay as the assessee has not received the order of the CIT(A) within the stipulated time. The delay is not deliberate and, therefore, the delay is condoned.

5.1 The Ld. AR submitted that the CIT(A) issued all the notices of hearing to the different email ids. instead of sending the said notices to the email id. mentioned in the Form No.35. The Ld. AR submitted that the CIT(A) has passed ex-parte order and, therefore, the matter may be remanded back to the file of the CIT(A).

6. The Ld. DR relied upon the Assessment Order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the notices issued by the CIT(A) was sent to the different email ids. and not to the email id. which was given to the CIT(A) by the assessee. 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, appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the open Court on this 20th June, 2024.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 20th June, 2024

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Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad