

| आयकरअपीलीयअधिकरणन्यायपीठ, कोलकाता।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"C" BENCH, KOLKATA

BEFORE DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER  
&  
SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER

**I.T.A. No. 85/Kol/2024**  
**Assessment Year: 2017-18**

<b>Tapan Kumar Barman</b> D-3/303, Peerless Nagar Sodepur, P.O. Panihati 24 Parganas (N) West Bengal - 700114 [PAN : AFWPB7516H]	Vs	<b>Income tax Officer, Ward-50(5), Kolkata</b>
---	----	--

अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
------------------------	--------------------------

Assessee by :	Shri Siddharth Agarwal, Advocate
Revenue by :	Shri G. Ajay Robin Singh, JCIT, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 13/06/2024  
घोषणा की तारीख /Date of Pronouncement: 08/07/2024

आदेश/ORDER

**PER DR. MANISH BORAD, ACCOUNTANT MEMBER :**

The present appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre, (hereinafter the "Id. CIT(A)") dt.11/12/2023, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for Assessment Year 2017-18.

2. Though the assessee has raised as many as six grounds of appeal but the sole grievance of the assessee is that since the impugned order is *ex-parte* and even the assessee could not appear before the Id. Assessing Officer for *bonafide* reasons and no details could be filed before the lower authorities and thus made prayer to restore the matter back to the file of the Id. Assessing Officer for *de novo* assessment.

3. We have heard rival contentions and perused the material placed before us. We note that the assessee is an individual and

furnished e-return of income for Assessment Year 2017-18 on 31/10/2017 declaring income of Rs. 11,09,710/-. Case selected for scrutiny through CASS followed by issuance of notice u/s 143(2) & 142(1) of the Act. Though the notices were sent by e-mail and also via speed-post on 23/12/2019, none appeared. The ld. Assessing Officer observed that the assessee had deposited Rs.53,11,500/- during demonetisation period. However, without giving any second opportunity, the ld. Assessing Officer framed the assessment on 27/12/2019 itself i.e., within four days of issuing the showcause letter and the total amount of cash deposit during demonetisation period at Rs.53,11,500/- added in the hands of the assessee u/s 69A of the Act as unexplained money and assessed income at Rs.64,21,210/-. Dissatisfied with the order of the ld. Assessing Officer, the assessee filed appeal before the ld. CIT(A). There was a delay of 32 days in filing of the appeal but the same was condoned but thereafter, assessee failed to appear on the date of hearing fixed by the ld. CIT(A). Further, the ld. CIT(A) without dealing with the merits of the case followed the decision of the Co-ordinate Bench Delhi in the case of *CIT vs. Mutliplan India Pvt. Ltd.*, as reported in 38 ITD 320 (Delhi), and dismissed the appeal *in limine*.

4. Before us, the ld. Counsel for the assessee has filed a detailed paper book containing 217 pages and has also drawn our attention to the details of cash deposit in the bank as well as copy of cash book from page 27 to 216 to demonstrate the source of cash deposited in the bank account. A comparative chart for the sales of past three years have also been furnished. Perusal of these details indicate that the assessee is regularly engaged in making cash sales and this

activity has not started specifically during the demonetisation period but the same is being consistently carried out for the past many years. Had these details been furnished before the lower authorities, the assessee would have been able to satisfy the lower authorities about the source of alleged cash deposit.

5. We, therefore, in the interest of justice and being fair to both the parties and considering the fact that proper opportunity of hearing was not granted by Id. Assessing Officer, admit the additional evidence filed before us and restore the issues raised on merits to the file of the Id. Assessing Officer for *de novo* adjudication and carry out the assessment proceeding after taking into consideration the details filed by the assessee in the paper book filed before us and after giving proper opportunity of hearing to the assessee shall decide in accordance with law. Needless to mention that, the assessee should remain compliant to the notice of hearing and shall not take adjournment and should appear on the very first date of hearing unless otherwise for a *bonafide* cause and furnish the details to explain the source of alleged cash.

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

**Order pronounced in the Court on 8<sup>th</sup> July, 2024 at Kolkata.**

Sd/-  
(SONJOY SARMA)  
JUDICIAL MEMBER

Sd/-  
(DR. MANISH BORAD)  
ACCOUNTANT MEMBER

Kolkata, Dated 08/07/2024  
*SJC Sarma*

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Assessee
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीयप्रतिनिधि , आयकरअपीलीयअधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई / Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Kolkata