

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC' : NEW DELHI**

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

**ITA No.1649/DEL/2024
(Assessment Year: 2017-18)**

Anil Kumar HUF,
B-17/4, Ramesh Nagar,
Delhi – 110 015.

vs.

ITO, Ward 49 (4),
Delhi.

(PAN : AAFHA2224P)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri S.L. Deepak, CA
REVENUE BY : Shri Om Prakash, Sr. DR

Date of Hearing : 11.07.2024
Date of Order : 18.07.2024

ORDER

This appeal by the assessee is directed against the order of the Id. CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated 12.12.2023 for the assessment year 2017-18.

2. Grounds of appeal taken by the assessee read as under :-

“1. It is contended that the Assessing Officer has erred in making the addition of Rs.13,98,500/- as unexplained cash deposits during the demonetization period.

2. It is contended that the two cash deposits on 10.11.2016 and 11.11.2016 aggregating to Rs.13,98,500/- were made in Axis Bank Account Number 912020020658201 of Ravi Dev Enterprises a sole proprietary of Anil Kumar Individual who is a separate taxable entity.

3. It is contended that the Assessing Officer has transgressed his jurisdiction in making the aforesaid addition of Rs.13,98,500/-.

4. It is contended that Rave Dev Enterprises is the proprietary of Anil Kumar Individual (PAN : AGGPK2735C) and not the appellant and the appellant does not have any business income.

5. It is contended that the demand raised of Rs.15,20,900/- which includes an interest of Rs.4,40,545/- needs to be reworked.”

3. There is a delay of 61 days in filing the appeal. Reasonable cause attributable is that the assessee has suffered from cancer which led to the delay. Upon hearing both the parties and perusing the records, I condone the delay.

4. Briefly stated the facts are that in this case, AO made addition of Rs.13,98,500/- on account of cash deposit made during the demonetisation period under section 69A of the Income-tax Act, 1961 (for short ‘the Act’).

5. Upon assessee’s appeal, ld. CIT (A) confirmed the addition.

6. Against this order, assessee has appealed before the ITAT. I have heard both the parties and perused the records.

7. Ld. Counsel for the assessee contended that in identical situation and in similar facts, ITAT has remitted the case of the assessee in ITA No.2098/del/2023 for AY 2016-17 to the AO with certain directions. Hence, he prayed that this matter should also be remitted to the AO for similar directions.

8. Ld. DR for the Revenue did not have any serious objection to this proposition.

9. I note that ITAT in assessee's own case (supra) has decided the similar issue as under :-

“2. Heard and perused the record. The assessee, as HUF, has filed return of Rs.2,45,000/- and the case of the assessee was selected for scrutiny under CASS for the reason of cash deposit during demonetization period and the Id. AO on the basis of notices issued and replies filed, had made an addition to the extent of 20% out of total credit entries of Rs.2,42,63,815/- in bank account No.912020020658201 in the name of M/s. Ravi Devi Enterprises. The Id.CIT(A) has also sustained the addition.

3. As, before us, the Id. AR canvassed that in fact, this account is not the account of the assessee, Anil Kumar, HUF, but, this bank account is held by Anil Kumar in his individual capacity. It was submitted that inadvertently at the time of opening of the bank account, PAN Card No.AAFHA2224P was mentioned which is of Anil Kumar, HUF. The Id. AR has placed on record a copy of PAN card of Anil Kumar, individual bearing NO.AGGBK2735C. It is also submitted that Anil Kumar, in his individual capacity, has also filed return where this account was disclosed. The Id. DR, however, submitted that before the Id. tax authorities below, these facts were not asserted and there is no specific ground before us also in that regard.

4. After taking into consideration the grounds as raised, we are of the considered view that there is an inherent error in the assessment proceedings which have been initiated against the present appellant. Shri Anil Kumar, HUF, in regard to an account which is in the name of M/s Ravi Devi Enterprises and the proprietor of the same is Anil Kumar, individual. Whatever error has crept into the bank account leading to scrutiny assessment and the addition are based on a wrong fact about the real identity of the bank account holder.

5. In the light of the aforesaid, we consider it an appropriate case to restore the issue on merits to the Id. Assessing Officer.

The Id. Assessing Officer shall give an opportunity of hearing to the assessee and pass a fresh order on merits. Consequently, the appeal is allowed for statistical purposes.”

10. Respectfully following the precedent, I remit the present case also to the AO. AO shall decide the case as per law and pass a fresh order on merits. Needless to add, assessee should given an opportunity of being heard.

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

Order pronounced in the open court on this 18th day of July, 2024.

**Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 18th day of July, 2024
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Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**