

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC-'B' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No. 1035/Bang/2024
Assessment Year : 2017-18

Shri Kori Lingaraju Veerabhadra, 1 st Main Road, Gandhi Nagar, Tumkur – 572 101. PAN: APOPV7454C	Vs.	The Income Tax Officer, Ward – 3, Tumkur.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Lakshmi, Advocate
Revenue by	:	Shri Ganesh R Ghale, Advocate, Standing Counsel for Revenue

Date of Hearing	:	01-07-2024
Date of Pronouncement	:	15-07-2024

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal arises out of order passed by NFAC, Delhi dated 25.01.2024 for A.Y. 2017-18.

2. At the outset, the Ld.AR submitted that there is a delay of 58 days in filing the present appeal before this *Tribunal*.

3. The reasons stated by the assessee in the affidavit filed in support of condonation application states that assessee had not received notices issued if any by the Ld.CIT(A) due to which assessee could not appear before the Ld.CIT(A) as well as was not aware of the impugned order having passed. The Ld.AR submitted that as the notices were issued only on ITBA and the assessee was not aware and well versed with the portal, the notices went unnoticed. It is submitted that the delay is therefore beyond control of the assessee. The Ld.AR thus prayed for the admission of appeal to be decided on merits.

4. On the contrary, the Ld.DR opposed vehemently for condonation of delay.

5. We have perused the submissions advanced by both sides in the light of records placed before us.

6. Admittedly, there is a delay of 58 days in filing the present appeal before this *Tribunal* and also that the assessee has not appeared before the Ld.CIT(A) eventhough 4 notices were issued. On perusal of the order passed by the Ld.CIT(A), it is noted that the notices of hearing were electronically issued on the ITBA instead of emailing it to assessee. In the interest of justice and to

meet the ends of substantial justice, we deem it appropriate to condone the delay in filing the appeal before this *Tribunal*.

7. On merits of the case, we note that there is cash deposits by the assessee during the demonetization period which has admittedly not been verified by the authorities below.

8. We also note that the demonetized cash deposited is to be verified in accordance with the 3 instructions issued by the CBDT whichever is applicable to the assessee as under:

- a) The 1st instruction was issued on 21/02/2017 by instruction number 03/2017.
- b) The 2nd instruction was issued on 03/03/2017 instruction number 4/2017.
- c) The 3rd instruction was in the form of a circular dated 15/11/2017 in F.No. 225/363/2017-ITA.II and the last one dated 09/08/2019 in F.no.225/145/2019-ITA.II.

9. It is noted that no purpose would be served by remanding the appeal to the Ld.CIT(A) as necessary verification is to be carried out as per the CBDT circular whichever is applicable to the present assessee. In the interest of justice, we remand this issue to the Ld.AO to carry out necessary verification and in the light of the evidences filed by the assessee and to consider the claim of assessee in accordance with law.

Needless to say that proper opportunity of being heard must be granted to assessee.

Accordingly, the grounds raised by the assessee stands partly allowed for statistical purposes.

In the result, the appeal filed by the assessee stands partly allowed for statistical purposes.

Order pronounced in the open court on 15th July, 2024.

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 15th July, 2024.
/MS /

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

By order

Assistant Registrar,
ITAT, Bangalore