IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "H" DELHI

BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER

ITA No.117/Del/2024
Assessment Year 2017-18

Akshit Madan GA-14, Shivaji Enclave Delhi	Vs.	**ITO, Ward-45(1)** Delhi
TAN/PAN: BSSPM3488B		
(Appellant)		(Respondent)

Applicant by:	Ms. Rano Jain, Advocate Ms. Shikha Rustagi, Advocate		
Respondent by:	Shri Amit Katoch, Sr.DR		
Date of hearing:	08	07	2024
Date of pronouncement:	25	07	2024

O R D E R

PER PRADIP KUMAR KEDIA - A.M.:

The captioned appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre, Delhi (NFAC) ['CIT(A)' in short] dated 14.11.2023 arising from the assessment order dated 28.12.2019 passed by the Assessing Officer (AO) under Section 144 of the Income Tax Act, 1961 (the Act) concerning A.Y. 2017-18.

2. As per several grounds of appeal, the assessee has essentially challenged the addition of Rs.4,31,14,000/- on account of cash deposits in the bank under Section 69A of the Act.

3. Briefly stated, the ld. counsel for the assessee submitted that the assessee is an individual engaged in the business of trading of ball bearing. On the basis of information gathered during the phase

of online verification under ‘Operation Clean Money’, the Income Tax Department found that assessee has deposited substantial cash in bank account during demonetization period but has not filed the return of income for A.Y. 2017-18 in question. The AO accordingly issued notice under Section 142(1) of the Act asking the assessee to file ROI and for assessing the taxable income of the assessee. The AO eventually found that the assessee has failed to prove the nature and source of aggregate cash deposits and credit entries appearing in the bank account aggregating to Rs.4,31,14,000/- under Section 69A of the Act.

4. Aggrieved, the assessee preferred appeal before the CIT(A). However the effort of the assessee did not yield any result before the CIT(A). The CIT(A) in order under Section 250 of the Act refused to interfere with the order of the Assessing Officer and sustained the additions.

5. Further aggrieved, the assessee preferred appeal before the Tribunal.

6. When the matter was called for hearing, the ld. counsel for the assessee submitted that one of the primary grievances of the assessee is that while certain additional evidences were placed before the CIT(A) for proper appreciation of case in perspective, the CIT(A) has neither accepted the additional evidence nor rejected the same. The ld. counsel adverted to paragraph 5.10 of the first appellate order in this regard and submitted that nowhere the CIT(A) has recorded reason which may give rise to inference of non admission of additional evidences. The CIT(A) however has dismissed the appeal of the assessee without taking cognizance of the additional evidences. Hence, the CIT(A) has not followed the due process of law with reference to the additional evidences filed

by the assessee. The ld. counsel thus submitted that appropriate relief is warranted in this regard.

7. On inquiry, the ld. Sr.DR could not point out that the additional evidences were indeed rejected by the CIT(A) in express terms. The ld. Sr.DR opined that a natural inference would follow that the CIT(A) has rejected the additional evidences. He accordingly contended that no interference with the order of the CIT(A) is called for.

8. We have carefully considered the rival submissions seeking to assail the first appellate order.

9. The point for determination, at present, is limited and narrow in its compass and is limited to admission of additional evidences. The CIT(A) in paragraph 5.10 has discussed the factum of furnishing certain evidences as additional evidence. However, the first appellate order is obscure and nondescript as to whether the additional evidences deserve to be admitted or otherwise. It is expected in law that an Appellate Authority would record the reasons in express terms for admission of additional evidences or otherwise. It is also in the interest of fair play and natural justice. The order of the CIT(A) apparently lacks any reasons for admission or non admission of the additional evidences. The due process of law is thus not adhered in the instant case. Such order of the First Appellate Authority in question cannot be countenanced in law and thus deserves to be set aside.

10. We thus consider it expedient to restore the matter back to the file of the CIT(A) for fresh adjudication of the appeal in accordance with law. The CIT(A) shall pass a speaking order giving its reason for admission of additional evidence or otherwise and thereafter

pass a speaking order determining the issue afresh in accordance with law after giving proper opportunity to the assessee. The appeal is thus set aside and restored to the file of the CIT(A) for adjudication of appeal afresh in accordance with law.

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

Order pronounced in the open Court on 25th July, 2024.

Sd/-	Sd/-
[SUDHIR PAREEK]	**[PRADIP KUMAR KEDIA]**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

DATED: 25th July**, 2024**
Prabhat

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

Assistant Registrar