

आयकर अपीलीय अधिकरण
कोलकाता 'एसएमसी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH, KOLKATA**

श्री राजेश कुमार, लेखा सदस्य
एवं
श्री प्रदीप कुमार चौबे, न्यायिक सदस्य
के समक्ष
Before

**SRI RAJESH KUMAR, ACCOUNTANT MEMBER
&
PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**

**I.T.A. No.: 528/KOL/2024
Assessment Year: 2017-18**

Paramita Singh.....Appellant
[PAN: AYCP5 9333 E]

Vs.

ITO, Ward-30(1), Kolkata.....Respondent

Appearances:

Assessee represented by: Rip Das, AR.

Department represented by: Nicholash Murud, Addl. CIT, DR.

Date of concluding the hearing : July 8th, 2024

Date of pronouncing the order : August 8th, 2024

ORDER

Per Pradip Kumar Choubey, Judicial Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2017-18 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by Id. Commissioner of Income-tax (Appeals)-NFAC, Delhi [in short Id. 'CIT(A)'] dated 27.02.2024 arising out of the assessment order framed u/s 147/144/144B of the Act dated 27-02-2024.

1.1. The brief facts of the case of the appellant are that the appellant carries on business under the trade name of M/s. Akash Traders and involves in the business of wholesale of threads and garment accessories. The appellant has

filed her original return of income on 04.12.2017 declaring the net taxable income at Rs. 3,48,890/- claiming deduction under Chapter VIA amounting to Rs. 1.50 Lakh. Her return of income was processed u/s 143(1) of the Act. Intimation has been sent that cash deposits amounting to Rs. 40,81,300/- during the period from 01.04.2016 to 08.11.2016 and further, cash deposits amounting to Rs. 7,83,900/- during the period from 09.11.2016 to 30.12.2016 that is during the demonetization period. The Assessing Officer (hereinafter referred to as ld. 'AO') has held that the assessee has deposited her unaccounted money of Rs. 7,83,900/- in bank account during the demonetization period and the ld. AO treated the same as unexplained money of the assessee. The said order has been challenged by the assessee before ld. CIT(A) wherein ld. CIT(A) has dismissed the case of the appellant without adjudicating the matter on merit rather on the ground that the appellant was not interested in pursuing the appeal. Being aggrieved and dissatisfied with the impugned order, the appellant preferred this appeal before the Tribunal.

1.2. Ld. Counsel for the assessee has submitted that the ld. AO has committed wrong thereby declaring the amount at Rs. 7,83,900/- being unexplained amount though before the AO the appellant has submitted audited accounts, balance sheet and profit and loss account, cash flow statement and cash book for the period from 01.04.2016 to 08.11.2016, cash flow statement and cash book for the period from 09.11.2016 to 30.12.2016 and further, from 31.03.2016 31.03.2017 that all goes to establish the case of the appellant with regard to source of money. Hence, the AO committed wrong thereby declaring the same as unexplained money. Ld. Counsel for the assessee further submits that in the notice it is alleged that entire cash was deposited by one Sri Jagdish Methani though Sri Jagdish Methani in deposition before the ld. ITO, Ward-1(4), Dehradun denied his role in the entire process. Ld. Counsel for the assessee further submits that before the ld. CIT(A) it has been mentioned that appellant in response to all the notices did not submit any document which is completely wrong which clearly reveals from Form-35 that in response to all the notices the appellant submitted the copies of audited accounts, tax audit report, source of cash deposits etc. The

ld. Counsel for the assessee further drew the attention of the Bench that the assessee maintains current bank account in Union Bank of India and not with United Bank of India.

1.3. Contrary to that, ld. D/R supports the impugned order though he conceded to this fact that ld. CIT(A) passed the order in limine without adjudicating the matter as the assessee did not pursue the matter.

2. We have perused the order of ld. CIT(A) and it appears to us that the appeal of the appellant has been dismissed without adjudicating the matter as the order reveals that in spite of sufficient opportunity afforded to the appellant, the appellant was not interested in pursuing the appeal. Further, we find that the appellant has submitted the following documents:

a) Audited account balance sheet and profit and loss account.

b) Cash flow statement and cash book for the period from 01.04.2016 to 08.11.2016.

c) Cash flow statement and cash book for the period from 09.11.2016 to 30.12.2016.

d) Cash flow statement and cash book for the period from 31.12.2016 to 31.03.2017.

2.1. The above all those documents reveal the deposit of amount during that period though it was by cash. It is the definite case of the appellant that appellant carries on business of wholesale of threads and garment accessories which are exclusively sold in cash. It also appears that the basis of the issuance of notice was that entire cash were deposited by one Sri Jagdish Methani and as per the submission of the ld. Counsel for the assessee that he denied his role in the entire process. We further find that ld. CIT(A) did not adjudicate the matter on merit rather dismissed the appeal only on this ground that the appellant did not submit anything in spite of given affordable opportunity. This fact has been controverted by the ld. Counsel for the assessee by submitting that he has filed audited accounts, cash flow

statement etc. which were sufficient evidence to decide the case. Since in the present case Id. CIT(A) did not decide the appeal on merit and dismissed the appeal in limine, so, we are of this view to remand back the case to the file of Id. CIT(A) with the direction to decide the case afresh after going over the documents filed by the assessee as it relates to the declaration of the unexplained amount. With these observations, the order of the Id. CIT(A) is set aside, the case is restored to the file of Id. CIT(A) with the direction to decide the case afresh after hearing the assessee after going over the documents filed by the assessee. Accordingly, the appeal of the assessee is hereby allowed.

3. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 8th August, 2024.

Sd/-

[Rajesh Kumar]

Accountant Member

Dated: 08.08.2024

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Paramita Singh, 60/56, Haripada Dutta Lane, Tollygunge, Kolkata, West Bengal, 700033.**
- 2. ITO, Ward-30(1), Kolkata.**
- CIT(A)-NFAC, Delhi.
- CIT-
- CIT(DR), Kolkata Benches, Kolkata.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata