

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H', NEW DELHI**

**BEFORE DR. B. R.R. KUMAR, ACCOUNTANT MEMBER
AND
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.1636/Del/2024
Assessment Year: 2017-18

Usman Khan 302/2.Nadie Ali Building Jali Kothi Meerut 25001 PAN No. DANPK4665P	Vs	ITO Ward-1 (2) (4) Meerut
(APPELLANT)		(RESPONDENT)

Appellants by	Sh. V. Rajkumar Advocate
Respondent by	Sh. Amit Katoch Sr DR

Date of hearing:	31/07/2024
Date of Pronouncement:	14/08/2024

ORDER

PER SUDHIR KUMAR, JM:

This appeal by the assessee is directed against the order of the Commissioner of Income Tax (Appeal)-Add1/JCIT(A)-9 Mumbai, [hereinafter referred to as "CIT(A)"], vide order dated 05.03.2024 pertaining to A.Y. 2017-18 and arises out of the order passed by the Assessing Officer dated 28.12.2019 under Section 144 of the Act, 1961 [hereinafter referred as 'the Act'].

2. The assessee has raised the following grounds of appeal :-

“1. On the facts and in the circumstances of the case, the learned additional/ Joint Commissioner of Income Tax (Appeals) has erred in sustaining the addition of Rs.4,76,000/- made U/s. 69A of the Income tax Act, 1961 by the AO to income of assessee. Observations made, inferences drawn and findings recorded in this regard are arbitrary, illegal and bad in law.”

3. Brief fact of the case is that the assessee has not filed the return of income for the A.Y.2017-18. On the basis of data analytics and information gathered during the ‘Operation Clean Money’ it was found that the assessee had deposited cash amounting Rs.14,47,000/-in the bank account. In the above cash of Rs.10,76000/- was deposited during the demonetization period (9-11-2016 to 30-12-2016). A notice u/s 142(1) dated 12-03-2018 was issued requiring the assessee to file his return of income for A.Y.2017-18 till 31-03-2018. Further notice dated 30-11-2018 was issued along with certain queries but the assessee has failed to make the compliance. The AO has made the addition of Rs.4,76,000/- as unexplained income u/s 69 of the Act and Rs.77860/- as the profit income from the business. The assessee has filed the appeal before the Ld CIT(A) who vide his order dated 05-03-2024 dismissed the appeal. Aggrieved by

the order of the Ld CIT(A) the assessee has preferred the appeal before us.

4. On behalf of the assessee an adjournment application was moved which was rejected and case was heard on merit.

5. The Ld. AR of the assessee has submitted that assessee is a petty vegetable vendor and illiterate and was unaware of the notice. He has further submitted that the assessee has filed the written statement in which he has stated that he was carrying on a business of trading of onion and vegetables on a very small scale and all the cash deposited has been made out of the sale proceeds. The Ld.AO has mentioned in the assessment order that the assessee had shown the business income in earlier years ITRs.

6. Per contra the DR relied on the orders of the lower authorities and sought for dismissal of the Appeal filed by the assessee.

7. On Perusal of the order of the Ld CIT(A) reveals that the amount of Rs.6,00,000/- was accepted as the turnover of the assessee and rest amount deposited Specified Bank Notes as unexplained income. The AO has accepted the partial deposits made by the assessee as business turnover and rest as

unexplained income without giving any reasons. The AO should have been given the reasons on what material the amount deposited in SBNs was the unexplained income of the assessee when the AO has accepted the amount of Rs 600000/- as his turnover the balance cash of Rs 476000/- in SBNs should have also been accepted the turnover of the assessee. The assessee has discharged the onus that the transaction of the cash deposit was genuine.

8. From the above discussion the appeal of the assessee is liable to be allowed and allowed accordingly. The orders of the both lower authorities are set aside.

9. In the result the appeal of the assessee is allowed

Order pronounced in the open court on 14.08.2024.

Sd/-

(DR.B.R.R. KUMAR)
ACCOUNTANT MEMBER

NEHA, Sr. PS

Date:- 14.08.2024

Copy forwarded to:

1.Appellant

2.Respondent

3.CIT

4.CIT(Appeals)

5.DR: ITAT

Sd/-

(SUDHIR KUMAR)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI