

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No.1211/Bang/2024
Assessment Year: 2017-18

Sri Peddanna Mondyala Narasimha, No.04, 3 <sup>rd</sup> Main Road 2 <sup>nd</sup> Cross, Jnanaganga Nagar Bangalore 560 056  <b>PAN NO : AMTPN7290G</b>	<b>Vs.</b>	ITO Ward-3(2)(3) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Shri Shivakumar G., A.R.
<b>Respondent by</b>	:	Shri Kiran D., D.R.

<b>Date of Hearing</b>	:	01.08.2024
<b>Date of Pronouncement</b>	:	14.08.2024

**O R D E R**

**PER SOUNDARARAJAN K., JUDICIAL MEMBER:**

This is an appeal filed by the assessee challenging the order of NFAC dated 2.1.2024 in respect of the assessment year 2017.18.

**2.** Brief facts of the case are that the assessee is a Proprietor of M/s. SLN Enterprises and dealing in cement and steel. The AO had treated the cash deposits in the bank account before and after the demonetization period as unexplained money and proposed to tax the same as income u/s 69A of the Act. Even though the assessee had filed their reply by stating that these are all the amounts received from the proceeds of sale of cement and steel, the same was not accepted by the AO and assessment was made. Against which, the assessee filed an appeal before Id. CIT(A)/NFAC and contended that these are all the incomes obtained by way of sale of cement and steel and therefore, the same could not be treated as income u/s 69A of the Act. While filing the appeal in Form 35, the assessee stated that

the notices may not be sent through the e-mail. The Id. CIT(A) had dismissed the appeal by observing that the assessee had not responded to the 5 notices issued u/s 250 of the Act and therefore, the assessee was not interested in prosecuting the appeal. Against this ex-parte order, the assessee is in appeal before the Tribunal.

**3.** The Id. A.R. at the time of hearing had submitted that the assessee was not able to appear before the Id. CIT(A) for the reason that the hearing notices were sent to the e-mail ID of the auditor's assistant who has left the job in the year 2022 itself and therefore, the assessee was not able to represent the appeal before the Id. CIT(A). The assessee also submitted that they are having all the details to show that entire deposits are only from known sources and prayed to grant one more opportunity to appear before the Id. CIT(A).

**4.** The Id. D.R. supported the order of lower authorities and prayed to dismiss the appeal.

**5.** We have heard the rival submissions and perused the materials available on record. As seen from the appeal memorandum, the appeal was filed with a delay of 111 days. The assessee enclosed condonation petition and explained that the delay has been occurred because of the ill health of the counsel and also because of the delay in getting the services of the another counsel. Further he averred in the petition that the earlier counsel not filed the appeal in time because of his health grounds and handed over the papers to the assessee for processing the second appeal through some other counsel. Hence, there is a delay of 111 days and prayed to allow the same since the assessee is having a good case on merits.

**5.1** We perused the reasons stated in the condonation petition and satisfied ourselves that there is a good and sufficient reason and the delay has been properly explained and therefore we condone the delay in filing the appeal before this Tribunal

**5.2** In so far as the merits of the case, we found that the Id. CIT(A) had issued notices on various dates which is as follows:

<b>Date of Notice u/s 250 of the Act</b>
07.03.2020
06.01.2021
10.11.2021
04.11.2022 (Enablement of communication window)
23.06.2023
23.11.2023

**5.3** Therefore, the Id. CIT(A) had decided the appeal ex-parte without going into the merits of the case and dismissed the same for the reason that the assessee had not responded to the various notices issued by him. The Id. CIT(A) had no opportunity to consider the merits of the case since the assessee had not appeared before him. By taking into consideration, the submissions made by the Id. A.R. and the undertaking given by him that the assessee would appear before the CIT if one opportunity is granted, we remit the issue in dispute to the file of Id. CIT(A) for passing orders afresh after hearing the assessee.

**6.** In the result, appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 14<sup>th</sup> Aug, 2024

**Sd/-**  
**(Chandra Poojari)**  
**Accountant Member**

**Sd/-**  
**(Soundararajan K.)**  
**Judicial Member**

Bangalore,  
Dated 14<sup>th</sup> Aug, 2024.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,  
ITAT, Bangalore.**