

आयकर अपीलीय अधिकरण, कोलकाता पीठ "ए", कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH: KOLKATA

श्री राजेशकुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्यके समक्ष

[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

I.T.A. No. 1305/Kol/2023

Assessment Year: 2017-18

Mafijur Rahaman (PAN: AEJPR 2508 H)	Vs.	ACIT, Circle-2, Burdwan
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	26.06.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	20.08.2024
For the Appellant/ निर्धारिती की ओर से	None
For the Respondent/ राजस्व की ओर से	Shri B. K. Singh, Addl. CIT

ORDER / आदेश

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 01.10.2023 for the AY 2017-18.

2. At the outset, we would like to mention that the impugned appeal was part heard on 30.05.2024 and certain details were sought from the assessee. Thereafter the case was adjourned three times to 08.06.2024, to 12.06.2024 and finally to 26.06.2024. However none on behalf of the assessee attended the proceedings nor any

written submission or arguments or details were filed. Finally the Bench decided to dispose of this appeal with the assistance of Ld. D.R after taking into the facts available on record. The assessee has challenged the order of Ld. CIT(A) on legal issue that the Ld. CIT(A) has erred in confirming the order of AO wrongly where the AO has assumed jurisdiction de hors issuing any valid notice u/s 143(2) of the Act. The assessee has also challenged the order of first Appellate Authority on merit by assailing the appellate authority on the ground that the addition of Rs. 2,64,34,060/- u/s 69A sans any substantive basis.

3. Facts in brief are that the assessee filed return of income on 23.10.2017 declaring total income of Rs. 11,89,400/-. Thereafter the assessee's case was selected for scrutiny and statutory notices were duly issued and served upon the assessee. During the course of assessment proceedings, the AO observed that the assessee has deposited Rs. 2,85,02,000/- in his bank account no. 19797 with SBI Bank, Katwa Branch during demonetization period and accordingly called upon to establish the genuineness of the cash transactions. However the assessee did not file any reply explaining the sources of cash deposits. Finally the AO ,after calling for the details from the SBI, katwa Branch and analyzing the same, held that Rs. 2,64,36,860/- was deposited out of unaccounted money by the assessee and added the same u/s 69A of the Act to be assessed u/s 115BBE of the Act vide order dated 29.12.2019.

4. In the appellate proceedings, the Ld. CIT(A) allowed four opportunities to the assessee i.e. 18.01.2021, 21.09.2023, 25.09.2023 and 29.09.2023 by servicing the notice through e-mail. However no response was received from the assessee's side. Finally the Ld. CIT(A), after analyzing the facts on record and perusing the material available in the assessment folder, dismissed the appeal of the assessee by observing and holding as under:

"7. The facts on the case as noted above are that the appellant has not pursued the appeal despite being granted opportunities as elaborated above. No details, documents or submissions have been provided to come to any conclusion other than those arrived at by the assessing officer in the assessment order. During the appellate proceedings the appellant was given opportunities to put forth his case, but he did not upload any response despite service of

notice(s). Considering all the facts and circumstances of the case no interference with the assessment order of the AO is called for. The appellate proceedings cannot be allowed to be held hostage by dilatory tactics on the part of the appellant and complete disdain for statutory notices. Therefore, I find no infirmity in the assessment order passed by the assessing officer u/s 143(3) of the Act dated 29.12.2019.”

5. Now we have examined the facts available on record with the assistance of Id DR and also perused carefully the order passed by the AO as well as the Ld. CIT(A) and observe that the addition was made towards cash deposits by the assessee during demonetization period in old currency notes amounting to Rs. 2,64,32,860/-. We note that when the assessee failed to furnish any details or reply before the AO, the same was added to the income of the assessee u/s 69A to be assessed u/s 115BBE of the Act. Before the Ld. CIT(A) also, the case was not represented at all and culminated in passing appellate order ex-parte. In the Tribunal too, the case was adjourned four times however, the details sought from the assessee were not filed. Therefore in absence of any evidences or material controvert the facts on record, we are inclined to uphold the order of Ld. CIT(A) as the assessee had deposited huge cash amounting to Rs. 2,64,32,860/- in old currency notes for which there is no explanation available on record. Consequently the appeal of the assessee is dismissed.

6. In the result, the appeal of the assessee is dismissed.

Order is pronounced in the open court on 20th August , 2024

Sd/-

Sd/-

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)
 Judicial Member/न्यायिक सदस्य

(Rajesh Kumar/राजेश कुमार)
 Accountant Member/लेखा सदस्य

Dated: 20th August , 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Mafijur Rahaman, C/o, S. N. Ghosh & Associates, Advocates, Sagar Mansion, 2, Garstin Place, 2nd Floor, Suite Nos. 202 & 203, Hare Street, Kolkata-700001
2. Respondent – ACIT, Circle-2, Burdwan
3. Ld. CIT(A)- NFAC, Delhi
4. Ld. Pr. CIT- Asansol.
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata