

**IN THE INCOME-TAX APPELLATE TRIBUNAL “SMC” BENCH,
MUMBAI**

**BEFORE SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER
&
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 2156/MUM/2024
(A.Y. 2017-18)**

Anupkumar Bahadur Jaiswal Shop No. 1, Teen Batti, Khadak Road, Bhaji Market, Bhiwandi, Maharashtra-421302	v/s. बनाम	ITO, Ward 1(1), Kalyan Mohan Plaza, Wayale Nagar, Khadakpada, Kalyan West, Maharashtra-421302
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AFIUPJ2215D		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Ms. Ketaki Rajeshirke
Respondent by :	Shri R. R. Makwana

Date of Hearing	30.07.2024
Date of Pronouncement	28.08.2024

आदेश / ORDER

PER RENU JAUHRI [A.M.] :-

This appeal is filed by the assessee against the order of the Learned Commissioner of Income-tax (Appeals), Thane- 2 /National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] dated 06.02.2024 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for Assessment Year [A.Y.] 2017-18.

2. The assessee has raised following grounds of appeal:



1. *On the facts and in the circumstances of the case, the Appellant submits that the Hon'ble Commissioner of Income Tax Appeals (Mumbai) passed the Appellate Order ex - parte dismissing the appeal as the Appellant has not made submissions in response to the notices issued for hearing.*

The Appellant submits that an opportunity of being heard be given to the Appellant.

2. *On the facts and in the circumstances of the case, the Appellant submits that the Hon'ble Commissioner of Income Tax Appeals (Mumbai) erred in upholding the cash deposits of Rs. 12,50,000/- made in bank during the demonetization period as Unexplained Cash Credits u/s 68 r.w.s. 115BBE of The Income Tax Act, 1961 by the Learned Assessing Officer.*

The Appellant submits that the addition of cash deposits of Rs. 12,50,000/- made u/s 68 as Unexplained Cash Credits be deleted.

3. *Without prejudice to the above, the Appellant submits that -*

On the facts and in the circumstances of the case, the Appellant submits that the Appellant is in the business of selling potatoes and onions and therefore, the cash deposits is out of the sale proceeds of his business activity.

The Appellant submits that the cash deposits of Rs. 12,50,000/- be treated as his business income.

3. Brief facts of the case are that the assessee filed return declaring income of Rs. 5,53,910/- on 31.03.2018. The case was selected for scrutiny and notices were issued on account of the fact that the assessee had deposited cash amounting to Rs. 12,50,000/- during the demonetization period. A survey u/s 133A of the Act was also conducted in the case of the assessee on 25.01.2018. In his statement, the assessee admitted during the course of survey that he had not



maintained books of account and deposits were out of sale proceeds, even though the assessee was not an authorized entity to accept the demonetized notes during the demonetized period. The assessee made no compliance to the notices issued by the AO during the assessment proceedings. Hence, the assessment u/s 144 was finalized, after making an addition of Rs. 12,50,000/- u/s 68 of the Act to the returned income.

4. Aggrieved with this order, the assessee filed an appeal before the Ld. CIT(A). However, no compliance was made by the assessee to the notices issued by the CIT(A) as well. Accordingly, the appeal was dismissed ex-parte vide order dated 06.02.2024.

5. Before us, Ld. AR pointed out that the assessee has wholesale business of Potatoes and Onions. He is not well versed in online procedures. Since no manual notices were issued and he was not in the habit of keeping track of his emails, no compliance could be made by the assessee, since he was totally unaware about the notices issued during assessment as well as appeal proceedings.

6. On the same grounds, the assessee has also requested for condonation of delay in filing this appeal.

7. We have heard the rival submissions. In view of the facts explained by the Ld. AR, the delay of 18 days in filing of the appeal is hereby condoned. The case is restored to the file of the Ld. CIT(A) for afresh adjudication, after giving due



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opportunity of hearing. The assessee is also directed to make requisite compliance to the notices issued by the Ld. CIT(A).

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 28.08.2024.

Sd/-

SANDEEP SINGH KARHAIL

(न्यायिक सदस्य/JUDICIAL MEMBER)

Sd/-

RENU JAUHRI

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 28.08.2024

अनिकेत सिंह राजपूत/ स्टेनो

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.