



**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH "A", LUCKNOW**

**BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER  
AND SHRI SUBHASH MALGURIA, JUDICIAL MEMBER**

ITA No.123/LKW/2021  
Assessment Year: 2017-18

<b>Vinti Maheshwari</b> 2/85, Vishal Khand, Gomti Nagar, Lucknow-226010.	v.	<b>ACIT, Range-1</b> Ashok Marg, Hazratganj, Lucknow-226001.
<b>PAN: APTPM4508D</b>		
(Appellant)		(Respondent)

Appellant by:	None
Respondent by:	Shri. Sanjeev Krishna Sharma, Addl. CIT(DR)
Date of hearing:	28 08 2024
Date of pronouncement:	29 08 2024

**ORDER**

**PER SUBHASH MALGURIA, J.M.:**

This appeal has been filed by the assessee against the order of the Id. CIT(A)-1, Lucknow dated 17.09.2020 for the assessment year 2017-18. The grounds of appeal of the assessee are as under: -

*"1. Because without considering the facts and in the circumstances of the case the Ld. CIT (A) has grossly erred in facts and in law in sustaining the addition of Rs. 5,00,000/- u/s 69A of the act on the basis of assumption or conjecture and surmises.*

*2. Because without considering the facts and in the circumstances of the case the Ld. CIT (A) has erred in facts and in law in confining addition of Rs. 5,00,000/- u/s 69A of the Act on the ad-hoc basis.*

*3. That in any case and in any view of the matter, impugned addition/ allowance assessment order are bad in law, illegal, unjustified, contrary to facts & law and based upon recording of incorrect facts and finding, without giving adequate opportunity of hearing, in violation of principles of natural justice and the same deserves to be quashed."*

2. It is seen that the present appeal before the Tribunal was filed belatedly and that there is a delay of 366 days in filing of the

appeal. As per the condonation petition, there is no mala-fide intention in not filing the present appeal on or before the due date. It is prayed that the delay of 366 days may kindly be condoned and the appeal be admitted for hearing. The Ld. DR had no objection to the delay being condoned. Therefore, the same be condoned and the appeal be heard on merit.

3. The brief facts of the case are that the assessee is engaged in the business of retail trading of readymade garments and foot wears and sportswear of different brands i.e. Puma brand, Arvind Mills brand, Aditya Birla brand, Louis Phillips and planet fashion etc. The assessee e-filed her return of income on 29/10/2017 for AY. 2017-18 declaring total income of Rs.39,44,370/-. The case was selected for scrutiny under CASS. According to the Assessing Officer ("AO"), the notice u/s 143(2) of the Income Tax Act, 1961 (hereinafter "the Act") on 25/09/2018 was issued and served upon the assessee. Thereafter, the notice issued u/s 142(1) of the Act on 28/08/2019 was also issued and served upon the assessee along with questionnaire. During the year under consideration, the assessee has income from business income of Rs.25,19,306/- and income from other sources of Rs.17,75,065/- after deducting Rs.2,00,000/- under chapter VIA of the Act, total income was declared at Rs.40,94,370/-. The AO completed the assessment u/s 143(3) of the Act on a total income of Rs.80,45,370/- by making an addition of Rs.41,01,000/- u/s 68 of the Act, treating the cash deposit in the bank account of the assessee as undisclosed income of the assessee.

4. Aggrieved by the order of the AO, the assessee preferred an appeal before the Ld. CIT(A) who relying on various case laws and after considering the detailed submissions of the Ld. Counsel for the assessee, deleted the addition of Rs.36,01,000/- and

confirmed the addition of Rs.5,00,000/- out of the total addition of Rs.41,01,000/- made by the AO. Aggrieved, the assessee is in appeal before us.

5. None appeared on behalf of the Assessee. However, finding that the matter can be decided in the absence of the Assessee/on behalf of the assessee, we have decided to dispose of the appeal after hearing the ld. CIT -DR and after perusing the material on record. The Ld. CIT-DR relied on the order passed by Ld. CIT(A) as well as AO.

6. We have heard the Ld. DR and perused the materials available on records. On perusal of the impugned appellate order of the Ld. CIT(A), we find that the assertions made by the Ld. counsel for the assessee are correct. We are of the view that the Ld. CIT(A) has not passed a speaking order why the aforesaid addition of Rs.5,00,000/- has been sustained. In view of the foregoing, in the specific facts and circumstances of the present case before us, we direct the AO to delete the aforesaid amount of Rs.5,00,000/-, the addition of which was sustained by the Ld. CIT(A) on ad hoc basis without passing a speaking order.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 29/08/2024.

Sd/-  
[ANADEE NATH MISSHRA]  
ACCOUNTANT MEMBER

Sd/-  
[SUBHASH MALGURIA]  
JUDICIAL MEMBER

DATED: 29/08/2024

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard File

By order

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Assistant Registrar