



**IN THE INCOME TAX APPELLATE TRIBUNAL  
SMC BENCH, LUCKNOW**

**BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

ITA No.325/LKW/2024  
Assessment Year: 2017-18

Lal Jeevan Bhardwaj 448/119/33, Behind Kalyangiri Mandir Chowk Nagariya 2 Anshik Lucknow	v.	ITO 6(2) Lucknow
TAN/PAN:		
(Appellant)		(Respondent)

Appellant by:	None		
Respondent by:	Shri Sanjeev Krishna Sharma, D.R.		
Date of hearing:	25	07	2024
Date of pronouncement:	30	08	2024

**ORDER**

This appeal has been preferred by the assessee against the order dated 02.12.2022, passed by the Id. Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi (hereinafter called "Id. CIT(A)") for Assessment Year 2017-18.

2. The brief facts of the case are that the assessee e-filed his return of income on 1.6.2017, declaring total income at Rs.3,94,890/-. The case of the assessee was selected for complete scrutiny through CASS. The Assessing Officer issued various notice under section 143(2) and 142(1) of the Income Tax Act, 1961 to the assessee, but there was no compliance from the assessee. The Assessing Officer, therefore, completed the assessment ex-parte qua the assessee, assessing the total income of the assessee at Rs.41,09,800/-, by making additions of

Rs.30,59,000/- and Rs.6,55,912/- under section 69 of the Income Tax Act, 1961.

3. Aggrieved, the assessee preferred an appeal before the NFAC. However, the appeal before the NFAC came to be dismissed on account of assessee's failure to submit any documentary evidence to disprove the additions made by the Assessing Officer.

4. Now, the assessee has approached this Tribunal challenging the dismissal of his appeal by the NFAC by raising the following grounds of appeal:

1. *Why the impugned order by Ld. AO not to be set aside, since the order passed is ex-parte and no hearing was made by assessee due to his illness and no notice was received by post.*
2. *Why the addition made by Ld. AO of Rs.6,55,912 as unexplained income u-s 69A not be deleted as it is being explained in our submission.*
3. *Why the addition made by Ld. AO of Rs.30,59,000 as unexplained income u/s 69A not be deleted as it is being explained in our submission.*
4. *Why the assessee should not be provided all relief granted under the income tax act and rules including relief of interest and penalty and prosecution.*

5. None was present on behalf of the assessee when the appeal was called out for hearing. However, looking into the facts of the case, I proceed to adjudicate the appeal ex-parte qua the assessee.

6. It was pointed out by the Registry that the appeal filed by the assessee was barred by limitation by 465 days. The assessee has submitted an application for condonation of delay accompanied with an Affidavit and Medical Certificates. It was prayed that the delay caused in filing the appeal was not deliberate and was beyond the control of the assessee and therefore, the same may be condoned and the appeal be heard on merits.

7. The ld. Senior Departmental Representative had no objection to the condonation of delay.

8. I have duly considered the issue of condonation of delay and looking into the facts and circumstances of the case and specially noting that the bona fide of the assessee in this regard is beyond doubt, I condone the delay of 465 days and admit the appeal for the purpose of regular hearing.

9. The ld. Senior D.R. had no objection to the restoration of appeal to the file of the Assessing Officer.

10. I have heard the ld. Senior Departmental Representative and have also perused the material on record. It is evident that there was complete non-compliance on the part of the assessee during the course of assessment proceedings and also the first appellate proceedings. However, looking into the facts of this case, I am of the considered view that the assessee deserves one more opportunity to present his case and, therefore, in the interest of substantial justice, I set aside the order of the NFAC and restore this file to the Office of the Assessing Officer with the direction to provide one more opportunity to the assessee to present his case and I also caution the assessee to fully comply with the directions of the Assessing Officer in the

set-aside proceedings when called upon to do so, failing which, the Assessing Officer shall be at complete liberty to pass the order in accordance with law, based on material available on record even if it is ex-parte qua the assessee.

11. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 30/08/2024.

Sd/-  
[SUDHANSHU SRIVASTAVA]  
JUDICIAL MEMBER

DATED:30/08/2024

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

By order

Assistant Registrar