



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

BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.382/LKW/2024
Assessment Year: 2017-18

Raj Mani Yadav D-124, Harihar Nagar Indira Nagar, Lucknow TAN/PAN:BCOPR2293D (Appellant)	v.	The Income Tax Officer 3(3) Lucknow (Respondent)
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Appellant by:	None (Adjournment application)		
Respondent by:	Shri Sanjeev Krishna Sharma, D.R.		
Date of hearing:	07	08	2024
Date of pronouncement:	30	08	2024

ORDER

This appeal has been preferred by the assessee against the order dated 31.10.2023, passed by the Id. Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi for Assessment Year 2017-18.

2. The brief facts of the case are that the assessee, a salaried person, e-filed his return of income for assessment year 2017-18 on 1.8.2017, declaring a total taxable income of Rs.2,87,850/-. Subsequently, the case was selected for limited scrutiny through CASS and the Assessing Officer completed the assessment, assessing the total income of the assessee at Rs.19,45,850/- by making addition under section 69A read with section 115BBE of the Income Tax Act, 1961 (hereinafter called 'the Act') at Rs.16,58,000/- on account of unexplained cash deposited during demonetization.

3. Aggrieved, the assessee preferred an appeal under section 246A of the Act before the Id. CIT(A), Lucknow-1 on 18.12.2019. Later on, the appeal migrated to NFAC, who vide its

impugned order dated 31.10.2023 dismissed assessee's appeal for want of prosecution by the assessee.

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

1. *Because the Assessment Order passed by the Assessing Officer and confirmed by the CIT(A) is contrary to law of facts and circumstances of the case.*
2. *Because the Ld. CIT(A) erred in law and facts while confirming addition made by AO at Rs.16,58,000/- under section 69A of Income-tax Act, 1961, cash deposited in Bank Rs.1,00,000/- out of past savings, Rs.3,13,816/- received from Mr. O.P. Yadav as advance against sale of plot and Rs.12,44,000/- received as cash marriage gifts on the occasion of marriage from various persons. The addition made without considering the nature of receipt of income of the appellant is liable to be deleted.*

5. None was present on behalf of the assessee when the appeal was called out for hearing. However, an application dated 5.8.2024 seeking adjournment was placed before me citing the reason that the assessee is in the process of collecting relevant information for submission and also coordinating with his counsel for the same. However, looking into facts of the case, I reject the adjournment application and proceed to adjudicate the appeal.

6. It is seen from the record that the present appeal has been filed belated and there is a delay of 159 days in filing this appeal before the Tribunal. The assessee has submitted a petition for condonation of delay along with an Affidavit citing the reason for delay as 'non-service of the impugned order due to mention of wrong e-mail id in Form 35.

7. Looking into the averment made in the Affidavit and also considering no objection of the ld. Sr. Departmental Representative to condonation of delay, I condone the delay of 159 days and admit the appeal.

8. Since the order passed by NFAC was an ex-parte order, the ld. Senior D.R. had no objection to the restoration of appeal to the NFAC.

9. 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 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 restore this file to the Office of the NFAC with the direction to hear the appeal on merits. I also caution the assessee to fully comply with the directions of the NFAC in the set-aside proceedings when called upon to do so, failing which, the NFAC 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.

10. 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