

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH
MUMBAI**

**BEFORE: SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT
MEMBER**

&

SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

**ITA No. 4138/MUM/2023
(Assessment Year : 2017-18)**

Ashok N. Jalnawala House No. 151, Belapur Village, Sector-20, CBD Belapur, Navi Mumbai, 400614.	Vs.	Additional/Joint/Deputy/ Assistant Commissioner of Income tax/Income-Tax officer/Commissioner(A) Income-Tax Officer, National e-Assessment Centre, New Delhi.
PAN/GIR No. ADVPJ6955F		
(Appellant)	..	(Respondent)

Assessee by	Shri. Fenil Bhatt
Revenue by	Shri. R. R. Makwana, Sr. DR
Date of Hearing	05/09/2024
Date of Pronouncement	09/09/2024

आदेश / ORDER

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 19.09.2023 passed in Appeal no. CIT(A) 46, Mumbai/10686/2019-20 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year 2017-18, wherein learned CIT(A) has dismissed assessee's appeal ex-parte.

2. The brief facts under appeal state that the assessee failed to furnish return of income for A.Y. 2017-18 either u/s. 139 or in response to notice u/s. 142(1) of the Act. On the basis of information gathered during the phase of online verification under 'Operation Clean Money', data revealed that the assessee deposited Cash of Rs. 12,48,000/- in his bank accounts during the demonetisation period (09.11.2016 to 30.12.2016). The case was selected for scrutiny and notices u/s. 143(2) and 142(1) of the Act were issued and served upon the assessee. The assessee failed to respond to these notices, hence learned assessing officer added Rs. 12,48,000/- u/s. 69A of the Act.
3. Aggrieved by the assessment order, assessee preferred an appeal before learned CIT(A), who dismissed assessee's appeal ex-parte.
4. Assessee has filed this second appeal on the ground that learned CIT(A) has erred in dismissing the appeal for non-prosecution without appreciating the written submission of the appellant.
5. In response to the notice issued by the tribunal, learned DR appeared and participated in the hearing.
6. We have perused the records and heard learned representatives for both the parties.
7. Learned representative for the assessee has, at the very outset informed that impugned order has been passed by learned CIT(A), ex-parte in violation of the principles of natural justice. Prayed to set aside the impugned order.
8. Learned DR has submitted that assessee was provided sufficient opportunity of hearing by learned CIT(A) but for no avail. Learned DR has supported impugned ex-parte order passed by the first appellate authority.

9. We notice that the learned CIT(A) had issued notices on five different occasions, however appellant assessee did not comply notices and made no endeavor to make submission before the learned CIT(A). However, in the interest of justice and fair play, we find it appropriate to afford last opportunity to the assessee and remit the matter back to the file of learned CIT(A) for denovo adjudication afresh on merit. We further direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the first appellate authority for the expeditious and effective disposal of the appeal. Assessee shall refrain from seeking any adjournment but for compelling and unavoidable circumstances. Needless to say that learned CIT(A) shall ensure the observance of the principles of natural justice. It is made clear that we have not made any observation on the merits of the case. The appeal is liable to be allowed accordingly.
10. In the result, the appeal is allowed. Impugned order dated 19.09.2023 is set aside. The case is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced on 09.09.2024.

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai; Dated 09/09/2024
Anandi Nambi, *Steno*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai