

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

**BEFORE MS KAVITHA RAJAGOPAL, JM &
MS PADMAVATHY S, AM**

**I.T.A. No.3837/Mum/2024
(Assessment Year: 2017-18)**

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| Jayesh Arvind Saiya B-4, Satya Niwas No.1, Nadiad, Wala Colony No. 2, S.V. Road, Malad W), Maharashtra-400064. PAN : BHBPS8731H | Vs. | ITO, Ward-30(1)-5, Kautilya Bhavan, Bandra Kurla Complex, Bandra, Mumbai-400051. |
| Appellant) | : | Respondent) |

Appellant / Assessee by : None
Revenue / Respondent by : Shri G.J. Ninawe, Sr. DR
Date of Hearing : 04.09.2024
Date of Pronouncement : 06.09.2024

ORDER

Per Padmavathy S, AM:

This appeal by the assessee is against the order of Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi [in short 'the CIT(A)'] dated 03.06.2024 for Assessment Year (AY) 2017-18. The assessee raised the following grounds of appeal:

“Being aggrieved by the order of the Assessing Officer 30 (1) 5, Mumbai and learned Commissioner of Income-tax (Appeal), NFAC, Delhi, this appeal petition is filed on the following amongst other grounds of appeal, which it is prayed may be considered without prejudice to one another.

1. On the facts, and in circumstances of the case, and in law, learned Commissioner of Income-tax (Appeal) erred in dismissing appeal alleging no

compliance to his notices despite your Appellant seeking adjournment on the portal.

2. On the facts, and in circumstances of the case, and in law, learned Commissioner of Income-tax (Appeal) erred in upholding action of the Assessing Officer in making addition of RS. 5,654,080 considering only deposits in the Federal Bank and Saraswat bank and completely ignoring the withdrawals

3. On the facts, and in circumstances of the case, and in law, learned Commissioner of Income-tax (Appeal) erred in upholding action of the Assessing Officer in making addition of RS 4,397,598, which were in fact the loan repayments (including interest) against amounts lent earlier from the same account, and the balance amount was attributable to grocery business of the Appellant.

4. Your Appellant craves leave to add to, amend, alter, modify, and/or delete any of the above grounds of appeal at or before final disposal of appeal.”

2. The assessee is an individual engaged in the business of carrying out retail business of selling food-grains. The assessee did not file the return of income for the year under consideration. The Assessing officer (AO) issued a notice under section 142(1) calling on the assessee to furnish the return of income. However, the assessee did not furnish the return of income in response to the said notice. The AO on the basis of data analytics and information gathered during online verification by the Income Tax Department noticed that the assessee has deposited a sum of Rs. 18,96,816/- into the Bank A/c during demonetization period. The AO also noticed certain other credits amounting to Rs. 37,98,950/- in the bank account of the assessee. Since the assessee did not respond to the notices issued, the AO completed the assessment under section 144 r.w.s 143(3) of the Act by making a total addition of Rs. 56,54,080/-. Aggrieved, assessee filed further appeal before the CIT(A). The CIT(A) issued various notices to the assessee and that the assessee did not respond. Therefore, the CIT(A) passed an ex-parte order confirming the addition made by the AO.

3. None appeared on behalf of the assessee. We heard the ld. DR. Considering the fact that the assessee did not represent the case of merits before the lower authorities and has not responded to the notices issued, we are inclined to give one more opportunity to the assessee in the interest of natural justice and fair play. Hence, the appeal is remitted back to the CIT(A) for a denovo consideration. The assessee is directed to furnish the relevant details as may be called for by the CIT(A) without seeking adjournments and co-operate with the appellate proceedings. It is ordered accordingly.

4. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 06-09-2024.

Sd/-
(KAVITHA RAJAGOPAL)
Judicial Member

**SK, Sr. PS*

Copy of the Order forwarded to :

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

Sd/-
(PADMAVATHY S)
Accountant Member

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai