



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

**BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER  
AND SHRI NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No.432/LKW/2020  
Assessment Year: 2017-18

Asstt. Commissioner of Income Tax Range – 1 Lucknow	v.	Shiv Shanker Singh 203/ 236, Baroulia Daliganj Lucknow
		TAN/PAN:AOTPS1323K
(Appellant)		(Respondent)

C.O. No.04/LKW/2021  
[ Arising out of ITA No.432/LKW/2020]  
Assessment Year: 2017-18

Shiv Shanker Singh 203/ 236, Baroulia Daliganj Lucknow	v.	Asstt. Commissioner of Income Tax Range – 1 Lucknow
TAN/PAN:AOTPS1323K		
(Cross-Objector)		(Respondent)

Department by:	Shri Sanjeev Krishna Sharma, D.R.		
Assessee by:	Shri Shailendra Mishra, Advocate		
Date of hearing:	06	08	2024
Date of pronouncement:	30	09	2024

**ORDER**

**PER BENCH:**

ITA No.432/LKW/2020 has been preferred by the Department against the order dated 23.09.2020 passed by the ld. Commissioner of Income Tax (Appeals)-2, Lucknow [herein referred to as 'CIT(A)] for Assessment Year 2017-18.

2. C.O. No.04/LKW/2021 has been preferred by the assessee.

3. The sole issue raised by the Department, challenging the order of the ld. CIT(A), is the deletion of addition of Rs.87,50,0000/- made by the Assessing Officer on account of failure of the assessee to prove the genuineness of cash deposits during demonetization period.

4. At the outset, the ld. authorized representative for the assessee submitted that the amount of deletion of addition of Rs.87,50,000/- mentioned in the grounds of appeal of the Department is incorrect, as the ACIT, Range – 1, Lucknow - New vide his order dated 7.1.2021 (copy placed at pages 1 & 2 of the paper book) has revised the income of the assessee after appeal effect at Rs.44,48,140/- by granting a relief of Rs.1,34,84,540/-. He submitted that in view of the revised order dated 7.1.2021 of the ACIT, Range – 1, Lucknow – New, the tax effect involved in the appeal is below Rs.50,00,000/- and, therefore, in view of the CBDT Circular No.17/2019 dated 8.8.2019, the appeal of the Revenue is liable to be dismissed.

5. On a query from the Bench, the ld. Sr. D.R. fairly accepted that the averment of the ld. authorized representative for the assessee regarding the tax effect was correct and, therefore, the present Departmental Appeal would not survive in view of the monetary limit

prescribed by the CBDT for filing of appeals by the Department before the ITAT, which is presently at Rs.50.00 lakhs or more.

6. Having gone through the records and in view of the fact that the tax effect in the captioned Departmental Appeal is less than Rs.50.00 lakh, we are of the considered view that the Departmental Appeal is infructuous and is, therefore, liable to be dismissed. Accordingly, the appeal of the Department stands dismissed.

7. As far as the CO of the assessee is concerned, the grounds raised by the assessee are in support of the order of the Id. CIT(A). Since we have already dismissed the appeal of the Revenue on ground of low tax effect, the Cross Objection of the assessee, supporting the order of the Id. CIT(A), has become infructuous and hence the same is dismissed as infructuous.

8. In the final result, the Appeal of the Department as well as the CO of the assessee are dismissed.

Order pronounced in the open Court on 30/09/2024.

Sd/-  
[NIKHIL CHOUDHARY]  
ACCOUNTANT MEMBER

Sd/-  
[SUDHANSHU SRIVASTAVA]  
JUDICIAL MEMBER

DATED:30/09/2024

JJ:

Copy forwarded to:

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

By order

Assistant Registrar