

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD
BEFORE DR. BRR KUMAR, ACCOUNTANT MEMBER**

**ITA No.188/Ahd/2024
Asstt.Year : 2017-18**

Rasikkumar Punjiram Thakkar AT-Mudwada, Tal. Sidhpur Dist-Patan Mudwada, Gujarat PAN : AGWPT 8787 H	Vs	ITO, Ward-4 Patan.
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(Applicant)		(Responent)
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Assessee by	:	None
Revenue by	:	Shri Ravindra, SR.DR

सुनवाई की तारीख /Date of Hearing : 10/10/2024
घोषणा की तारीख /Date of Pronouncement: 10/10/2024

आदेश/ORDER

This is assessee's appeal against the order of the ld. Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi dated 08.12.2023 for the Asstt.Year 2017-18 passed under section 250 of the Income Tax Act, 1961 ("the Act" for short).

2. The grounds raised by the assessee in the appeal reads as under:

- 1 The learned CIT (A) has erred both in law and on facts of the case in confirming the addition of Rs. 26,55,000/- being unexplained cash deposit in bank u/s 69A of the income tax Act 1961.
- 2 The learned CIT (A) has erred both in law and on the facts of the case in holding that there was no nexus between the cash withdrawal and subsequent deposit in bank account
- 3 Both the lower authorities have passed the orders without properly appreciating the facts and they further erred in passing the impugned order without providing sufficient opportunity to explain. This action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed
- 4 The learned CIT (A) has erred in law and on facts of the case in confirming the action of the learned AO in initiating penalty u/s 271 AAC (1) and 272A (1) (d) of the I. T. Act, 1961.
- 5 The learned CIT (A) has erred in law and on facts of the case in taxing the income added u/s 69A, u/s 115 BBE of the Act

3. A perusal of the above grounds would indicate that the assessee has challenged addition of Rs.26,55,500/- being unexplained cash deposits in bank under section 69A of the Act. Besides, the assessee has also raised a primary issue in the grounds challenging the order of the Id.CIT(A) being passed without providing adequate opportunity to the assessee and thereby violating principle of natural justice.

4. I have gone through the impugned order of the Id.CIT(A) and I find that the impugned order was passed *ex parte* owing to non-compliance of various notices by the assessee issued on 18.3.2020, 25.12.2020 and 14.11.2023. The Id.CIT(A) also noted that to prove the case of the assessee, it is essential for the assessee to furnish concrete proof to support its contention and substantiate the nature of cash deposits in the bank. He, thus, confirmed the action of the AO.

Considering the orders of the Revenue authorities, I find that in the interest of justice, the assessee shall be provided one more opportunity to defend its case before the Revenue authorities, and for this purpose, I remand the issue back to the Id.CIT(A) with direction to adjudicate the matter afresh after providing reasonable opportunity to the assessee. Needless to add, the assessee shall cooperate and comply with the notice to be issued by the Department in the set aside proceedings before the Id.CIT(A) and should not indulge unwarranted delay tactics.

5. The appeal of the assessee is allowed for statistical purpose.

Dictated on the Open Court, typed and pronounced on 10th October, 2024.

Copy of this order be given to the assessee. The Registry is directed to dispatch as per procedure.

Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER

Ahmedabad, dated 10/10/2024

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