

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA**

**Shri Sonjoy Sarma, Judicial Member  
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No.1811/Kol/2024  
Assessment Year: 2017-18**

**Shyamarani Manna Maity,**

Paschim Para Mandirtala,  
Sagar, South 24 Parganas - 743373  
[PAN: CZRPM9719C]

.....**Appellant**

**vs.**

**I.T.O. Ward-26(4), Kolkata,**

Aaykar Bhawan Dakshin, 2,  
Gariahat Road South,  
Kolkata - 7000068

.....**Respondent**

**Appearances by:**

Assessee represented by : Manish Tiwari, AR  
Department represented by : Susanta Saha, Sr. DR

Date of concluding the hearing : September 26, 2024  
Date of pronouncing the order : September 30, 2024

**ORDER**

**Per Sonjoy Sarma, Judicial Member:**

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2017-18 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the Ld. Commissioner of Income Tax (Appeals), Addl/JCIT(A)-5, Mumbai (in short "the Ld. CIT(A)"), dated 11.01.2024 arising out of Assessment Order dated 05.12.2019, passed under Section 143(3) of the Act.

2. The Assessee has raised the following grounds of appeal:

*"1.) That on the facts and in the circumstances of the case, order u/s 250 dated 11.01.2024 passed by Ld. CIT(A)-NFAC, Delhi is erroneous and bad in law.*

*2.) That on the facts and in the circumstances of the case, Ld. CIT(A) erred in passing the order on ex parte view without allowing effective opportunity of hearing.*

*3.) (a) That on the facts and in the circumstances of the case, Ld. CIT(A) erred in confirming the action AO who made an addition of Rs. 10,00,000/- as unexplained cash credit u/s 69A of the Act.*

*(b) That on the facts and in the circumstances of the case, Ld. CIT(A) erred in confirming the action of AO who erroneously added the sum of Rs. 10,00,000/- u/s 69A which was actually deposits received from A/c holders of SBI and the appellant being commission Agent as Common Service Centre of SBI accepted the same on behalf of the customers which was ultimately deposited in their respective bank a/cs.*

*4.) That the appellant craves leave to add, amend, alter and/or delete any of the forgoing grounds of appeal before or during the course of appeal proceedings."*

3. At the time of hearing, the Ld. Authorised Representative stated that the Learned CIT(A) passed the order ex parte without giving the assessee sufficient opportunity to represent its case. The Authorised Representative submitted that the assessee had not received the notice sent by the Learned CIT(A) because the email ID provided was not accessed, and the assessee was unaware of the proceedings. The Learned Authorised Representative requested that the matter may be remanded back to the Learned CIT(A) for fresh hearing with the assurance that the assessee would fully cooperate in the further proceedings.

4. On the other hand, the Learned Departmental Representative opposed the submission made by the assessee. The Learned Departmental Representative pointed out that multiple notices were issue to the assessee on various dates such as 08.10.2023, 15.11.2023, 19.12.2023. Despite these notices no one appeared on behalf of the assessee to represent the case before the Learned CIT(A). As a result, the Learned CIT(A) had no choice to pass an order based on the material available on record. The

Learned Departmental Representative argued that there was no fault or error in the procedure adopted by the Learned CIT(A).

5. We have considered the rival submissions and perusing the material available on record. It is clear from the order of the Learned CIT(A) that the notices were issued to the assessee on multiple occasions but no response or appearance was made on behalf of the assessee. However, the assessee has contended that assessee did not receive these notices because e-mail ID provided was not accessed. Thus, in turn, lead to passing of the ex parte order against the assessee. The assessee has now provided an undertaking before us, assuring that if the matter is remanded back to the Learned CIT(A) then she will fully cooperate and ensure representation in any future proceedings. Considering the facts of the case and principle of natural justice, we find that it is appropriate to grant assessee one more opportunity to represent its case before the Learned CIT(A). In the interest of justice, we set aside the order of the learned CIT(A) and remand the matter back to the file of CIT(A) for re-examination. The Learned CIT(A) is directed to provide reasonable opportunity to the assessee to present its case on merits The assessee is also directed to promptly comply with the notices issued by the Learned CIT(A) and ensure proper representation in future proceeding. In view of the above, the appeal of the assessee is allowed for statistical purposes.

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

***Kolkata, the 30<sup>th</sup> September, 2024.***

***Sd/-***  
**[Rakesh Mishra]**  
**Accountant Member**

***Sd/-***  
**[Sonjoy Sarma]**  
**Judicial Member**

Dated:30.09.2024.

*AK, PS*

*Copy of the order forwarded to:*

- 1 Shyamarani Manna Maity.,
2. I.T.O. Ward-26(4), Kolkata
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches

