

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "A", MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER  
AND SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No.3971/Mum/2024  
Assessment Year: 2017-18**

Anup Agarwalla  84 Maker Chamber No III Nariman Point, Mumbai- 400021.  <b>PAN: AEVPA 3175 P</b>  (Appellant)	Vs.	ACIT Circle 3(1)(1), Mumbai         (Respondent)
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**Present for:**

Assessee by : Shri Tarang Mehta  
Revenue by : Shri Ram Krishna Kedia, Sr. DR

Date of Hearing : 17.09.2024

Date of Pronouncement : 25.10.2024

**ORDER**

**PER AMARJIT SINGH, ACCOUNTANT MEMBER:**

This appeal of the assessee for the assessment year 2017-18 is directed against the order dated 28.06.2024 passed by the Id. Commissioner of Income-tax (Appeal), ADDL/JCIT(A)-1, Bengaluru. The assessee has raised the following grounds of appeal:

*"1 On the facts and circumstances of the case, the Id. CIT(A) erred in disposing off the appeal in limine. The CIT(A) is duty bound to dispose off the matter on the merits of the case, even in the case of non-attendance by the appellant. It is therefore prayed that the matter be restored back to the CIT(A) for hearing.*

*1.1 Alternatively, on the facts and circumstances of the case, therefore the Id. CIT(A) erred in confirming the action of the AO in taxing a sum of Rs. 3,35,060/- u/s 68 r.w.s. 115BBE of the Act on account of alleged unexplained cash deposited in bank (during demonization period out of opening balance) which was computed on mere estimation and ad-hoc basis.*

*2. The appellant craves leaves to add, to alter or amend the grounds of appeal on or before the hearing of the appeal.”*

2. Fact in brief is that return of income declaring total income of Rs. 1,79,84,980/- was filed on 04.08.2017. The case was subject to scrutiny assessment u/s 143(3) of the Act. During the course of assessment, the assessing officer noticed that assessee has deposited Rs. 31,28,500/- in cash during the demonetization period on 08.11.2016 to 30.12.2016. The assessing officer was of the view that cash deposits to the extent of Rs. 3,35,060/- out of cash deposits of Rs. 31,28,500/- were not satisfactorily explained. Therefore, the AO has treated the cash deposits to the extent of Rs. 3,35,060/- as unexplained u/s 68 of the Act and added to the total income of the assessee.

3. The assessee filed appeal before the ld. CIT(A). During the course of appellate proceedings before the ld. CIT(A), assessee has not made any compliance to the notice of hearing issued by the ld. CIT(A), therefore, the ld. CIT(A) has sustained the impugned addition reiterating the finding of the assessing officer.

4. Heard both the sides and perused the material on record. During the course of appellate proceedings before us, the ld. Counsel submitted that the first notice of hearing was issued during Covid period, therefore, the assessee could not make compliance before the ld. CIT(A). However, the assessee could not make compliance to the other two notices because of some unavoidable circumstances as the assessee was travelling during that period because of some urgent commitment therefore requested that more opportunities be provided before the First

Appellate Authority for deciding the issue in the appeal of the assessee on merit. We find there is bona fide reason as discussed above because of which the assessee could not make compliance before the ld. CIT(A) therefore in the interest of justice to decide the issue in appeal on merit we restore the case of the assessee to the file of the ld. CIT(A) for adjudication on merit as contemplate u/s 250(6) of the Act after providing 3 more opportunities to the assessee. The assessee is also directed to make due compliance before the First Appellate Authority without any default. Accordingly, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 25.10.2024.

**Sd/-**  
**(SANDEEP SINGH KARHAIL)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated: 25.10.2024  
Biswajit, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:
3. The CIT,
4. The DR

//True Copy//

By Order

Assistant Registrar  
ITAT, Mumbai Benches, Mumbai