

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "C", NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,  
AND  
SHRI YOGESH KUMAR US, JUDICIAL MEMBER

	ITA NO. 1375/Del/2023		
	A.YR. : 2017-18		
IMAMUDDIN ANSARI, 325, RANI GARDEN, GEETA COLONY, DELHI – 110 031 (PAN: BRVPA9697L) (APPELLANT)	VS.	INCOME TAX OFFICER, WARD 58(5), NEW DELHI  (RESPONDENT)	

Appellant by : Ms. Puneeta Pandey, CA

Respondent by : Sh. Om Parkash, Sr. DR.

Date of hearing : 29.10.2024

Date of pronouncement : 29.10.2024

**ORDER**

**PER SHAMIM YAHYA, AM :**

The Assessee has filed the instant Appeal against the Order of the Ld. CIT(Appeal)/NFAC, Delhi dated 22.02.2023, relating to assessment year 2017-18 on the following grounds:-

1. That the learned Authorities below have grossly erred in law and facts in passing the order which is bad in law and facts. Hence liable to be quashed.
2. The appellant engage in business of distribution of mother dairy poly pack milk & milk product in a specified area such as Rani Garden,

Shashtri Nagar, Aram park, Lahore Colony , Delhi 110031, since November , 2015 To May 2022. Sir I am authorized milk distributor of Mother dairy having code MD:CHM;74725. Due to my business nature my whole transaction is in cash. I am to pay Mother dairy on daily Basis through ECS from State Bank of India Account No. 35309244451.To make ECS clear on daily basis I have to deposit my daily sale proceeds In my above mentioned SBI account number after retaining my commission/margin. This process is regular on daily basis. I have only my Commission Income , there is no any extra Income earned from mother dairy or no any other income source, So There is no addition of income under sec 69A of income tax act.

All the transactions of Business through banking channels and only payment made

to Mother Dairy i.e. Milk Supplier only. My all banking transactions are genuine and related to my business only. I have all the necessary documentary evidence related to my Business transactions as well as banking transaction.

3. That the learned Authorities below have .grossly erred in law and facts in imposing Tax Rs. 29,38,650 addition u/s 69A of the Income Tax Act, 1961 without considering the facts of the case. Hence the addition is liable to be deleted.

2. In this case, AO made an addition on account of deposit of cash in bank amounting to Rs. 29,38,650/-. AO has also noted that assessee has also not properly complied with the notices.

3. Upon assessee's appeal Ld. CIT(A) passed the order by noting that assessee has not properly complied with the notices. He confirmed the AO's action by dismissing the appeal for non-prosecution.

4. Against this order, assessee is in appeal before us.

5. We have heard both the parties and perused the records. Ld. Counsel for the assessee pleaded that assessee has not been given adequate opportunity before the AO to properly canvass his case. Ld. DR did not object the aforesaid proposition.

5.1 After considering the aforesaid factual matrix, we are of the considered view, that interest of justice will be served, if the issues in dispute are remitted back to the file of the AO with the directions to decide the same afresh, after giving adequate opportunity of being heard to the assessee. We hold and direct accordingly.

6. In the result, the Assessee's appeal is allowed for statistical purposes.

Order pronounced on 29/10/2024.

Sd/-

Sd/-

(YOGESH KUMAR US)  
JUDICIAL MEMBER

(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

SRB

**Copy forwarded to:-**

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

Assistant Registrar