

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'B', कोलकाता  
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

**Before Shri Sanjay Garg, Judicial Member and Shri Sanjay Awasthi, Accountant Member**

**I.T.A. Nos.1754 & 1755/Kol/2024**

**Assessment Years: 2017-18**

**Seemabh Ali** ..... **Appellant**  
**81/B, Topsia Road, Kolkata-700039.**  
**(PAN: AFVPA7476E)**

**vs.**

**ITO, Ward 25(3), Kolkata.** ..... **Respondent**

**Appearances by:**

Md. Indekhanbuddin, AR appeared on behalf of the Appellant.

Shri P. P. Barman, Addl. CIT, Sr. DR appeared on behalf of the Respondent

Date of concluding the hearing :October 21, 2024

Date of pronouncing the order :October 21, 2024

**आदेश / ORDER**

**Per Sanjay Awasthi, Accountant Member :**

Both the captioned appeals have been preferred by the assessee against the order dated 18.06.2024 of the Ld. Commissioner of Income Tax (Appeals), NFAC, Delhi [hereinafter referred to as the "Ld. CIT(A)"] for Assessment Year 2017-18.

**ITA No. 1754/Kol/2024**

2. The assessee in this appeal is aggrieved by the action of the lower authorities in making/confirming the addition of Rs.9,26,116/- into the income of the assessee on account of cash deposit during demonetization period.

3. At the outset, Ld. Counsel for the assessee has submitted that the impugned order of the Ld. CIT(A) is an ex parte order u/s. 144 of the Income Tax Act, 1961 (hereinafter referred to as the "Act"). He has

further submitted that the assessee is a lady and was not conversant with the technical procedures involved in the assessment of income and, therefore, her case remained unrepresented before the AO in the assessment proceedings. The Ld. Counsel has further submitted that necessary details were furnished before the Ld. CIT(A), however, the revenue authorities have not properly appreciated the evidence filed. The Ld. Counsel, therefore, has submitted that the matter may be restored to the file of the AO so that the assessee may explain the small deposits made during the demonetization period.

4. The Ld. DR has not agreed to the same. Considering the above submissions, in our view, the interest of justice will be served if the assessee is allowed to present her case and explain the source of the deposit before the AO. The impugned order of the Ld. CIT(A) is set aside and the matter is restored to the file of the AO for passing a fresh order in this respect after considering the explanations and submissions, if any, submitted by the assessee. The assessee is also directed to promptly participate in the proceedings before the AO and furnish the necessary details. In view of this, the present appeal of the assessee is treated as allowed for statistical purposes.

**ITA No.1755/Kol/2024**

5. The present appeal has been preferred by the assessee adjudicating against the levy of penalty u/s. 271AAC(1) of the Act. Admittedly, the basis of the penalty in this appeal is the quantum additions which have been contested by the assessee in the appeal in ITA No. 1754/Kol/2024. As discussed above, since the matter relating to the quantum addition has been restored to the file of the AO, therefore, the impugned penalty levied by the AO has no legs to stand and the same is accordingly ordered to be deleted. However, it is made clear that if in the set aside/fresh assessment proceeding the AO would

be of the view that it is a case of levy of penalty, the AO will be at liberty to initiate fresh penalty proceedings accordingly.

9. In the result, the appeal of the assessee in ITA No. 1754/Kol/2024 stands allowed for statistical purposes and ITA NO. 1755/Kol/2024 of the assessee is treated as allowed.

Order is pronounced in the open court.

Sd/-  
**[Sanjay Garg]**  
न्यायिक सदस्य/Judicial Member

Sd/-  
**[Sanjay Awasthi]**  
लेखा सदस्य/Accountant Member

Dated: 21.10.2024.

*JD Sr. P.S*

*Copy of the order forwarded to:*

1. **Appellant – Seemabh Ali**
2. **Respondent – ITO, Ward-25(3), Kolkata.**
3. **CIT(A), NFAC, Delhi**
4. **Pr. CIT**
5. **CIT(DR),**

BY ORDER,

Assistant Registrar  
ITAT, Kolkata