

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH “K”, MUMBAI**

**BEFORE SHRI MS KAVITHA RAJAGOPAL, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.3126/M/2024
Assessment Year: 2017-18**

Abdulrazzak Kasim Sumbad 203/204, Adarsh Apartment, Green Complex, Mira Village, Mira Road (E.), Thane – 401104. PAN: AXVPS2124H	Vs.	Assistant Commissioner of Income Tax, Ward 2(1), Ashar IT Park, 6 th Floor, Road No. 16Z, Wagle Industrial Estate, Thane (West), Maharashtra- 400604.
(Appellant)		(Respondent)

Present for :

Assessee by : Ms. Himani Buddhadev

Revenue by : Shri Kiran Unavekar, SR. D.R.

Date of Hearing : 23 . 09 . 2024

Date of Pronouncement : 24 . 10 . 2024

ORDER

Per: Ratnesh Nandan Sahay, Accountant Member:

1. This appeal has been filed by the appellant against the Order of the Ld.

CIT (Appeals) passed u/s. 250 of the Income Tax Act [the ‘Act’ in short]

vide DIN & Order No. ITBA/NFAC/S/250/2022-23/1049849420(1)

Dated 17/02/2023 for the Assessment Year 2017-18.

2. Following grounds of appeal have been raised by the appellant:

1. *a. The Learned Commissioner of Income Tax (Appeals) has erred in confirming the additions made by the Assessing Officer passed u/s 144 of the Income Tax Act. 1961.*
- b. The Learned CIT (Appeals) fails to appreciate the fact that in the facts and the circumstances of the appellant case that no additions was called for.*
- c. The Appellant prays that the addition made to the income of the appellant be deleted.*
2. *The appellant craves leaves to add to, amend, alter & substantiate the above grounds at the time of hearing.”*

3. The facts of the case, in brief, are that the assessee is a non- filer and has not filed a return of income for the assessment year under consideration. The Ld. AO received information that the assessee has deposited a sum of Rs.12,81,000/- during the period of demonetization. The assessee, therefore, was asked by the Ld. AO to explain the source of deposits of the aforesaid amount. In response to that, the assessee stated that he was engaged in the business of purchase, sale and development of land, etc. and cash deposit made in the said bank account was out of receipts from the land development. The Ld. AO did not accept the contentions of the assessee and added a sum of Rs.12,81,000/- u/s. 69A of the Income Tax Act. The Ld. AO passed the assessment order u/s. 144 of the Income



Tax Act on the ground that the assessee did not comply with the notices issued u/s. 142(1) and 143(2) of the Income Tax Act.

4. Aggrieved by the order of the Ld. AO, the appellant filed appeal before the Ld. CIT (A). The Ld. CIT(A) vide impugned order dismissed the appeal of the assessee on the ground that the appellant neither complied with the notices issued by the Ld. CIT(A) nor offered any explanation regarding the source of cash deposits made during the demonetization period. The Ld. CIT (A), therefore, did not find any reason to interfere with the order of the Ld. AO.
5. Aggrieved by the order, this appeal has been preferred before us. During the appellate proceedings, the appellant submitted that the Ld. CIT(A) did not give him any opportunity of being heard and had the opportunity been given to the appellant, he would have explained the source of cash deposits. We have considered the facts of the case and the above submissions and we think it proper to remand the matter back to the file of the Ld. CIT (A) with a direction to decide the issue on merit after affording a reasonable opportunity of being heard to the appellant. The appellant is also directed to appear before the Ld. CIT (A) to explain his case on merit.



6. In the result, the appeal is allowed for statistical purpose.

Order pronounced in the open court on 24.10.2024.

**Sd/-
KAVITHA RAJAGOPAL
JUDICIAL MEMBER**

**Sd/-
RATNESH NANDAN SAHAY
ACCOUNTANT MEMBER**

Mumbai, Dated: 24.10.2024.

Snehal C. Ayare, Stenographer

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.