

**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH KOLKATA**

**BEFORE SHRI SONJOY SARMA, JUDICIAL MEMBER  
AND SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**ITA No. 742/KOL/2024  
Assessment Year: 2017-18**

Income Tax Officer, 2, Gariahat Road, (South) Kolkata - 7000068	Vs	Surendra Kumar Nathany, 3D, 6 Dover Road, Kolkata - 700019 (PAN: ABPPN4429A)
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for:**

Appellant by : Miraj D. Shah, A.R.

Respondent by : P.P. Barman, Addl. CIT, Sr. DR

Date of Hearing : 24.10.2024

Date of Pronouncement : 04.11.2024

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER:**

This appeal filed by the Revenue is against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as “the Ld. CIT(A)”] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for AY 2017-18, dated 06.02.2024, which has been passed against the assessment order u/s 143(3) of the Act dated 07.12.2019.

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

“1 That the Ld. CIT(A) in his appellate order has failed to appreciate the fact that assessee did not submit any explanation/ document in reply to notices served upon him during scrutiny assessment and as such the Assessing Officer was justified in making disallowances of expenditure claimed u/s 57 of the I.T. Act of Rs. 31,50,790/-. That the Ld. CIT(A) during appellate proceedings has accepted fresh documents/evidences from assessee and decided the case on the basis of such documents without giving opportunity to the Assessing

*Officer to submit Remand Report and as such he has violated the provisions of Rule 46A of the Income Tax Rules, 1962.*

2. *That the Ld. CIT(A) in his appellate order has failed to appreciate the fact that assessee did not submit any explanation/ document in reply to notices served upon him during scrutiny assessment and as such the Assessing Officer was justified in treating cash deposit of Rs. 31,95,100/- in bank during demonetisation period as unexplained. That the Rule 46A of the Income Tax Rule 1962 is a part of statute and by not calling Remand Report from the Assessing Officer, the constitutional validity of the provisions of Rule IT Rule, 1962 has been challenged, which comes within the ambit of exceptional clause 10(a) of the CBDT Circular No. 3/2018 dated 11/07/2018.”*

3. It is seen, at the outset, that the tax effect on the disputed additions before us is less than Rs. 60 lakhs as prescribed in the CBDT's latest Circular No. 09/2024 dated 17.09.2024 for filing appeals by the Revenue before this Tribunal.

3.1. This circular prescribes that the revised monetary limits shall apply retrospectively to pending appeals as well.

4. The ld. DR has also fairly stated that tax effect involved in appeal is less than the prescribed limit.

5. In view of above stated position, the appeal of the Revenue is dismissed u/s 268A of the Act because of tax effect lower than the prescribed limits as per CBDT Circular No. 09/2024 (supra).

6. In case, at a later stage, it is found that these appeals are indeed covered under 'exceptions' then the department would be at liberty to move the ITAT with an MA for appropriate considerations.

7. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 4<sup>th</sup> November, 2024.

Sd/-  
**(Sonjoy Sarma)**  
**Judicial Member**

Sd/-  
**(Sanjay Awasthi)**  
**Accountant Member**

Dated: 04.11.2024

AK, P.S.

Copy to:

1. The Appellant:
2. The Respondent.
3. CIT(A)
4. The CIT,
5. DR, ITAT, Kolkata Bench, Kolkata

//True Copy//

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata