

आयकर अपीलीय अधिकरण
कोलकाता 'सी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'C' BENCH, KOLKATA**

श्री राजेश कुमार, लेखा सदस्य
एवं
श्री प्रदीप कुमार चौबे, न्यायिक सदस्य
के समक्ष

Before

**SRI RAJESH KUMAR, ACCOUNTANT MEMBER
&
PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**

**I.T.A. No.: 1079/KOL/2023
Assessment Year: 2017-18**

***Md. Suleman.....Appellant
[PAN: APTPM 1895 F]***

Vs.

ITO, Ward-2(2), Siliguri.....Respondent

Appearances:

Assessee represented by: Soumitra Choudhury & P. Sarkar, Adv.

Department represented by: Ankur Goyal, JCIT, Sr. D/R.

Date of concluding the hearing : September 19th, 2024

Date of pronouncing the order : November 12th, 2024

ORDER

Per Pradip Kumar Choubey, Judicial Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2017-18 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Id. 'CIT(A)'] dated 28.07.2023 arising out of the assessment order framed u/s 144 of the Act dated 20.12.2019.

1.1. The brief facts of the case of the appellant are that the assessee being an individual has not filed return of income for the AY 2017-18. A notice u/s 142(1) of the Act has been issued. However, the assessee did not file its return of income in response to the said notice. Hence, proceedings u/s 144 of the Act has been initiated, notice u/s 142(1) of the Act was issued but the assessee did not comply. Accordingly, as per the material available with the Department, it appears that assessee has made huge amount of bank transactions in the FY 2016-17. Hence, entire cash deposit and credit entries at Rs. 1,20,43,867/- is treated as unexplained money u/s 69A of the Act. Penalty proceedings u/s 271AAC of the Act has also been initiated. The assessee placed the said order before ld. CIT(A) wherein also his appeal has been dismissed on account of non-compliance on behalf of the assessee. Ld. Counsel for the assessee instead of challenging the impugned order on the merit, has submitted that order has been passed behind the back of the assessee. So, he should be given an opportunity to place his case before the Assessing Officer (hereinafter referred to as ld. 'AO') as the assessee has sufficient documentary evidences in support of his case. Ld. Counsel for the assessee submits that in the interest of justice, assessee has been given an opportunity to place his case.

1.2. On the contrary, ld. D/R supports the impugned order.

2. On perusal of the order of the ld. AO as well as ld. CIT(A) it appears to us that due to non-compliance, the order was passed. Considering the facts and for the interest of justice, we are in this opinion that assessee has to be given an opportunity to place his case before the ld. AO. Accordingly, the case is restored to the file of ld. AO, orders of ld. AO and ld. CIT(A) are hereby set aside. The case is remanded back before the ld. AO. Assessee is directed to place his material and documents before the ld. AO in support of the case without taking any adjournment. The ld. AO is also directed to pass a fresh order after hearing the assessee.

3. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 12th November, 2024.

Sd/-

[Rajesh Kumar]

Accountant Member

Dated: 12.11.2024

Bidhan (P.S.)

Copy of the order forwarded to:

1. **Md. Suleman, Kamrangaguri, P.O- Satalite Township, P.S- Bhaktinagar, Dist- Jalpaiguri, West Bengal, 734015.**
2. **ITO, Ward-2(2), Siliguri.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard file

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata