



**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC BENCH, LUCKNOW**

BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.614/LKW/2024
Assessment Year: 2017-18

Rajendra Pratap Yadav 21/202, Indira Nagar Lucknow	v.	The CIT(A) NFAC
TAN/PAN:ACMPY9678E		
(Appellant)		(Respondent)

Appellant by:	None
Respondent by:	Shri Sanjeev Krishna Sharma, D.R.
Date of hearing:	12 11 2024
Date of pronouncement:	14 11 2024

ORDER

This appeal has been preferred by the assessee against the order dated 19.07.2024, passed by the Id. Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi for Assessment Year 2017-18.

2. The brief facts of the case are that the assessee is running a proprietorship business under the name and style "M/s Sai Kripa Medical Store" and is engaged in retail trading of Medicines. The Income Tax Department received an information that the assessee had deposited cash to the tune of Rs.11,80,000/- in his bank accounts No.6297176095 and No.6200601863 with Indian Bank, Indira Nagar, Lucknow during the demonetization period. Since the assessee had not filed the

ITR for the year under consideration, the Assessing Officer (AO) issued notice under section 142(1) of the Income Tax Act, 1961 (hereinafter called "the Act") to the assessee. Since the assessee failed to respond to the notice issued by the AO, the AO issued notice under section 133(6) of the Act to the Indian Bank, Indira Nagar, Lucknow. During the enquiry, it was noticed by the AO that the assessee had another bank account, bearing No.964234308 with the same bank, in which the assessee had deposited cash amounting to Rs.2,56,000/- during the demonetization period. Thus, there was a total cash deposit of Rs.14,36,000/-. The AO also noticed that the assessee had made cash deposits to the tune of Rs.27,42,000/- during the period other than demonetization, in assessment year 2017-18. Subsequently, the AO issued show cause notice under section 144 of the Act to the assessee, requiring the assessee to show cause as to why the provisions of section 144 of the Act may not be invoked in his case and the assessment be completed on best judgment assessment, on the basis of material available on record. Finally, the assessee submitted the copy of return for the year under consideration filed on 02.12.2019, along with written reply. The return so filed by the assessee was treated as invalid, as the same was filed by the assessee after the time limit. The

AO completed the assessment under section 144 of the Act, computing the income of the assessee as under:

1. Cash deposits u/s. 69A of the Act : Rs.41,78,000/-

2. Cash credit u/s.69A of the Act : Rs.98,287/-

Gross total income : Rs.42,76,287/-

(Rounded off) Rs.42,76,290/-

3. The AO also initiated penalty proceedings under section 271AAC of the Act.

4. Aggrieved, the assessee preferred an appeal before the NFAC, who partly allowed the appeal of the assessee by passing an order ex-parte qua the assessee.

5. Now, the assessee has approached this Tribunal challenging the order passed by the NFAC by raising the following grounds of appeal:

1. That Commissioner of Income Tax (hereinafter referred to as Ld. Officer) has erred on facts and law while making addition of Rs.14,36,000 u/s 69A of the Income Tax Act Officer made addition of Rs.14,36,000 being cash deposited during the period of demonetization.

2. That Ld. Officer made addition of Rs.14,36,000 ignoring the fact that such proceeds are forming part of the business receipts duly disclosed by the assessee and previous savings of the assessee.

3. That Ld. Officer made addition of Rs.14,36,000 being amount deposited during the period Ignoring the fact that assessee was running Pharmacy business which was covered by the notification issued by the Government permitting to receive SBN for specified period

4. The assessee reserves the right to add, delete, alter or amend any grounds of appeal stated above.

5. Any other relief which your good self may deem fit.

6. A perusal of record shows that there is a delay of 20 days in filing the appeal before the Tribunal. The assessee had filed an application dated 03.10.2024 for condonation of delay, duly supported by an Affidavit and Medical Certificate, stating therein that the assessee was unwell during September and the concerned Doctor had advised him complete bed rest. Therefore, the appeal could not be filed within the stipulated period. It has been prayed that the delay be kindly condoned.

7. The Ld. Sr. D.R. had no objection to the delay being condoned.

8. In view of the prayer made by the Assessee, duly supported by Affidavit, Medical Certificate and no objection by the ld. D.R., I condone the delay in filing of the appeal and admit the appeal for hearing.

9. None was present for the assessee when the appeal was called out for hearing. However, an application dated 09.11.2024, seeking adjournment was placed before me citing the reason that the assessee is in the process of collecting information/documents related to the proceedings. However, looking into facts of the case, I reject the adjournment application and proceed to adjudicate the appeal.

10. Since the order passed by NFAC was an ex-parte order, the Id. Senior D.R. had no objection to the restoration of appeal to the NFAC.

11. I have heard the Id. Senior Departmental Representative and have also perused the material on record. It is evident that there was non-compliance on the part of the Assessee during the course of first appellate proceedings. However, looking into the facts of the case, I am of the considered view that the Assessee deserves one more opportunity to present his case and, therefore, in the interest of substantial justice, I restore this file to the Office of the NFAC with the direction to hear the appeal on merits. I also caution the Assessee to fully comply with the directions and notices of the NFAC in the set-aside proceedings when called upon to do so, failing which, the NFAC shall be at complete liberty to pass the order in accordance with law, based

on material available on record even if it is ex-parte qua the assessee.

12. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 14/11/2024.

Sd/-
[SUDHANSHU SRIVASTAVA]
JUDICIAL MEMBER

DATED:14/11/2024

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR

By order

Assistant Registrar