



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

**BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

ITA No.494/LKW/2024  
Assessment Year: 2017-18

Karan Singh 496, Hiran Nagar Unnao, Uttar Pradesh	v.	ITO-2(4) Unnao _ New
TAN/PAN:AQWPLS6478L		
(Appellant)		(Respondent)

Appellant by:	Shri Vinay Kumar Tiwari, Advocate		
Respondent by:	Shri Sanjeev Krishna Sharma, D.R.		
Date of hearing:	08	10	2024
Date of pronouncement:	14	11	2024

**ORDER**

This appeal has been preferred by the assessee against the order dated 18.09.2020, passed by the ld. Commissioner of Income Tax (Appeal)-01, Lucknow (ld. CIT(A) for Assessment Year 2017-18.

2. The brief facts of the case are that the assessee had e-filed his return of income for the year under consideration, declaring a total income of Rs.4,47,580/-. Subsequently, the case was selected for scrutiny under CASS for the reason that the assessee had deposited Rs.10,00,000/- in old SBNs (Specified Bank Notes) on 15.11.2016 in his bank account No.010010100010068 with Aryavart Bank. Accordingly, the AO issued notice under section 142(1) of the Income Tax Act, 1961 (hereinafter called "the Act"), along with a questionnaire.

However, there was no compliance by the assessee. The AO, therefore, obtained bank statement of the assessee from the bank by issuing notice under section 133(6) of the Act. The AO, thereafter, issued notice under section 142(1) of the Act, giving last opportunity to the assessee to submit his explanation. Since, again, there was no compliance by the assessee, the AO completed the assessment under section 144 of the Act, assessing the total income of the assessee at Rs.14,47,580/-, treating the amount of Rs.10,00,000/- deposited by the assessee during the demonetization period as unexplained cash credit and added the same under section 69A of the Act.

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

4. Aggrieved, the assessee preferred an appeal before the ld. First Appellate Authority. The ld. CIT(A) deleted the addition of Rs.4,00,000/- out of the addition of Rs.10,00,000/- and sustained the addition of Rs.6,00,000/-.

5. Now, the assessee has approached this Tribunal challenging the action of the AO as well as the ld. CIT(A) by raising the following grounds of appeal:

- 1. Because on the facts and in the circumstances of the case the order of Ld. CIT(A) is bad in law as the Ld.*

*CIT(A) passed the order without considering the facts that of the case.*

- 2. Because on the facts and in the circumstances of the case the order of Ld. CIT(A) is bad in law as the money deposited in the bank account due to demonetization declared by Govt. of India and the money was withdrawn by the appellants bank account and the appellant is a government servant and appellant is also an old age person aged about 75 years old.*
- 3. Because the deposit of old notes of Rs.10,00,000/- kept for plot purchase which is belongs to the assessee and collected by its own bank and past savings, hence the order of Ld. CIT(A) is bad in law and liable to set-aside and quashed.*
- 4. Because on the facts and in the circumstance of the case, the order of Assessment has been passed in absolute violation of the principles of Natural Justice, without providing adequate opportunity of being heard and therefore deserves to be declared a nullity.*
- 5. The appellant craves for leave to add, modify, amend or delete any other and further grounds of appeal with permission.*

3. The Ld. Authorized Representative for the assessee submitted that there was a delay of 1350 days in filing the appeal before the Tribunal. He submitted that the assessee had filed an application dated 09.08.2024 for condonation of delay, duly supported by an Affidavit, Medical Certificate and Doctor's

prescriptions, stating therein that the assessee was suffering from Bone T.B., due to which the hip bone of the assessee was damaged and after consulting with the Doctors, hip bone surgery was conducted and that an artificial hip bone was fitted after removing the damaged hip bone. It was further submitted that due to prolonged illness of the assessee, the appeal could not be filed within the stipulated period. It was prayed that the delay caused in filing the appeal was not deliberate and was entirely beyond the control of the assessee and, therefore, the same may please be condoned and the appeal be heard on merits.

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

7. In view of the prayer made by the Assessee, duly supported by Affidavit, Medical Certificate, Doctors' prescriptions and no objection by the Ld. Sr. D.R., I condone the delay in filing of the appeal and admit the appeal for hearing.

8. During the course of hearing before me, the Ld. Authorized Representative for the assessee invited my attention to the Supplementary Affidavit filed on behalf of the assessee, Shri Karan Singh, along with following four Annexures:

- (i) Copy of the payment details.
- (ii) Copy of the bank passbook of the younger son, Shri Hemant Kumar.

(iii) Copy of Bank account statement of the assessee with Aryavart Bank.

(iv) Copy of Bank account statement of Shared Kumar.

9. The Ld. A.R. submitted that the Supplementary Affidavit contains some important facts relating to the case of the assessee and prayed that the same may be admitted under Rule 29 of the I.T.A.T. Rules.

10. The Ld. Sr. D.R. had no objection to the admission of the additional evidences.

11. Having gone through the additional evidences filed before me, I am of the view that these evidences go to the very root of the matter and are germane to proper determination/assessment in the case of the Assessee. Accordingly, I admit the same.

12. The Ld. A.R. further prayed that in the interest of natural justice, the matter may be restored back the file of the AO where all the aforesaid additional evidences shall be produced to prove the transactions entered into by the Assessee during the year under consideration.

13. The Ld. Senior D.R. had no objection to the restoration of appeal to the AO.

14. I have heard the ld. Senior Departmental Representative as well as the ld. AR and have also perused the material on

record. Looking into the facts of this 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 AO with the direction to provide one more opportunity to the Assessee to present his case. I have already admitted the additional evidences filed by the Assessee in the form of Supplementary Affidavit and four Annexures under Rule 29 of the I.T.A.T. Rules, the Assessee shall produce them before the AO during the course of set aside proceedings. I also caution the Assessee to fully comply with the directions of the AO in the set-aside proceedings when called upon to do so, failing which, the AO 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.

15. 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