

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'SMC' NEW DELHI
BEFORE MS MADHUMITA ROY, JUDICIAL MEMBER**

ITA No. 566/DEL/2022

Assessment Year: 2012-13

SHRI ABDUL SATTAR, C/O SHRI ANKIT GUPTA, ADVOCATE, 2, ANAND VIHAR, LANE NO.1, NEAR M G PUBLIC SCHOOL, CIRCULAR,MUZAFFARNAGAR, UTTAR PRADESH-247 001	Vs.	INCOME TAX OFFICER, WARD-3(3)(1), SAHARANPUR
PAN :DNPPS5886F		
(Appellant)		(Respondent)

Assessee by	Shri Ankit Gupta, Advocate
Department by	Shri Sanjay Kumar, SR, DR

Date of hearing	29.10.2024
Date of pronouncement	20.11.2024

ORDER

PER MADHUMITA ROY, JUDICIAL MEMBER

The instant appeal filed by the assessee is directed against the order dated 06.01.2022 passed by Learned Commissioner of Income Tax(Appeals) National Faceless Appeal Centre(NFAC), New Delhi, arising out of the order dated 14.12.2019 passed by the Income Tax Officer, Ward 3(3)(1), Saharanpur, (hereinafter referred to as the "AO") under Section 144 r.w.s. 147 of the Income-tax Act, 1961 (hereinafter referred to as the "Act") for Assessment Year 2012-13.

2. The appeal is barred by limitation for 25 days due to engagement of new counsel in the matter which has been brought to our notice by filing an application for Condonation of Delay. The explanation granted by the assessee seems to be genuine and hence allowed.

3. Before the Learned CIT(A), the appeal was filed late, barred by limitation for about 176 days which was not properly explained and hence it was dismissed. However, it appears from the records that the issue involved in this matter being cash deposit of Rs. 32,37,400/- in the Saving Bank account of Punjab National Bank, Saharanpur, during the year by the assessee could not be explained before the Learned AO in spite of repeated notices served upon the assessee including show cause for ex-parte proceeding under Section 144 of the Act in the re-opening proceedings under Section 147 of the Act, neither the assessee complied the same by filing return nor explained the source of cash deposit, addition, therefore, under Section 69A of the Act was made.

3, The assessee is an agriculturist having 50 bighas of agricultural land and also doing work at the ration depot for 40 years, having commercial income on sale of sugar, kerosene oil and food grain on behalf of the State Food and Supply Department. The case of the assessee is that the cash deposit made in the Saving Bank account was out of the daily sale amount and withdrawals for the purchase of depot items. However, such explanation given by the Learned AR has not been substantiated by corroborative evidence, hence the appeal is

disposed of by setting aside the issue to the Learned CIT(A) for consideration of the same on merits afresh and to pass a reasoned order. While doing so, the Learned CIT(A) is directed to grant an opportunity of being heard to the assessee and to consider the evidence on record or any other evidence which the assessee may choose to file at the time of hearing of the appeal. With the aforesaid observation assessee's appeal is allowed for statistical purposes.

Order pronounced in the open court on 20th November, 2024.

**Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER**

Dated: 20th November, 2024

DP/SPS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi