

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ SMC, अहमदाबाद ।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
" SMC " BENCH, AHMEDABAD

BEFORE DR. BRR KUMAR, VICE PRESIDENT  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

आयकर अपील सं./ITA No.936/Ahd/2024  
निर्धारण वर्ष /Assessment Year : 2017-18

|   |                       |                                      |
|---|-----------------------|--------------------------------------|
| Faridabanu Shaikh<br>C/o. Humera Packaging<br>Plot No.15,Nr. Sardar Palace Hotel<br>Sarkhej Sanand Highway, Sanand<br>Ahmedabad - 380 055 (Gujarat) | <b>बनाम/<br/>v/s.</b> | The ITO<br>Ward-3(3)(1)<br>Ahmedabad |
| <b>स्थायी लेखा सं./PAN: AQGPS 1044 J</b>  |                       |                                      |

|                        |  |                          |
|------------------------|--|--------------------------|
| (अपीलार्थी/ Appellant) |  | (प्रत्यर्थी/ Respondent) |
|------------------------|--|--------------------------|

|               |                             |
|---------------|-----------------------------|
| Assessee by : | Shri Chetan Agarwal, A.R.   |
| Revenue by :  | Shri C. Dharani Nath, Sr.DR |

सुनवाई की तारीख/Date of Hearing : 19/11/2024  
घोषणा की तारीख /Date of Pronouncement: 22/11/2024

**आदेश/ORDER**

**PER MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

This appeal is filed by the Assessee against the order dated 13/12/2023 passed by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)" in short] for Assessment Year (AY) 2017-18.

2. Grounds of appeal are as under:

1. *The Ld.CIT(A) erred in law as well as on fact in dismissing appeal ex-parte.*
2. *Ld.CIT(A) erred in law as well as on fact in upholding addition of Rs.11,00,000 made by Ld.AO being cash deposited in bank account."*

3. The assessee filed her return of income for AY 2017-18 on 23/09/2013 declaring income of Rs.1,78,110/-. The assessee, as per the observation of the Assessing Officer (AO), is claimed to have income from milk selling business. The return of income was processed u/s.143(1) of the Income Tax Act, 1961 (hereinafter referred to as "the Act). The case was selected for limited scrutiny with the reason of "large value cash deposits during demonetization period as compared to returned income". Accordingly, notice u/s.143(2) of the Act was issued on 23/08/2018. Notice u/s.142(1) of the Act was issued along with questionnaire on 11/04/2019. Further, notice u/s.142(1) of the Act was also issued to the assessee on 10/10/2019 respectively. In response to the notices, the assessee furnished written submissions and details. The AO observed that as on 31/03/2016, there was a closing cash book balance of Rs.12,84,371/- which is claimed to have been accumulated over the period of last five years as seen from the cash books submitted for Financial Years (FY) 2010-11 to 2015-16. The AO observed that the cash books and other accounts furnished by the assessee have no genuineness and there was not a single withdrawal towards any of the expenses from the cash books furnished for the last five years. The assessee could not establish the genuineness and, thus, this is an undisclosed amount of Rs.11 lakhs which was deposited during the period of demonetization. Thus, the AO made an addition of Rs.11 lakhs u/s.69A of the Act as unexplained money of the assessee.

4. Being aggrieved by the assessment order, the assessee filed an appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld.AR for the assessee submitted that the CIT(A) has passed *ex-parte* order without giving any notice to the assessee.

6. The Ld.DR for the Revenue relied upon the assessment order and the order of the CIT(A).

7. We have heard both the parties and perused the material available on record. After going through the file, it appears that there is a delay of 82 days in filing the present appeal for which no explanation has been given by the assessee, but from the perusal of the assessment order and the order of the CIT(A), it reveals that the order of the CIT(A) is *ex-parte*. Further, in Column 3 (c), the date of service or communication of the order mentioned in Form No.36 is 13/12/2023 and, therefore, we condone the delay. Besides this, the order passed by the CIT(A) is *ex-parte* and without mentioning any proper service of notice as contained in Paragraph No.4 of the order of the CIT(A). Therefore, it would be appropriate if this matter is remanded back to the file of the CIT(A) for proper verification and adjudication of the issues contested by the assessee before the CIT(A). The CIT(A) will adjudicate the same as per the Income Tax Statute. Needless to say, the assessee be given proper opportunity of being heard by following natural justice.

8. In the result, the appeal of the assessee is partly allowed for statistical purposes.

**Order pronounced in the Court on 22<sup>nd</sup> November, 2024 at Ahmedabad.**

**Sd/-  
(DR. BRR KUMAR)  
VICE PRESIDENT**

**Sd/-  
(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

अहमदाबाद/Ahmedabad, दिनांक/Dated 22/11/2024  
टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-(NFAC), Delhi
5. विभागीय प्रतिनिधिआयकर अपीलीय अधिकरण /DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad