

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.660/Del/2023  
Assessment Year: 2010-11

<b>Rajesh Kumar Sharma 108, Parmesh Business Centre Plot No.20 Community Centre, Karkardooma New Delhi PAN No.AHLPS06322A</b>	<b>Vs</b>	<b>ITO Ward- 2 (2) Ghaziabad</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	<b>Sh. Prince Mohan Sinha, Advocate Sh. Aniket Sharma, Advocate</b>
Respondent by	<b>Ms. Harpreet Kaur Hansra, Sr. DR</b>

Date of hearing:	18/11/2024
Date of Pronouncement:	22/11/2024

**ORDER**

**PER SUDHIR KUMAR, JM:**

This appeal by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)/NFAC, Delhi [hereinafter referred to as "CIT(A)"] vide order dated 24.01.2023 pertaining to A.Y. 2010-11 pertaining to arises out of the

assessment order dated 18.12.2017 under section 144/147 of the IT Act, 1961 [hereinafter referred as 'the Act'].

2. The assessee has raised following grounds of appeal :-

- 1. That the order is bad in law and facts of the Case.*
- 2. APPEAL is filed well in time as prescribed under the Act.*
- 3. Order of confirming the reopening of assessment is bad I view of the judgment of the Hon'ble Supreme Court.*
- 4. Order of confirming the reopening of assessment is bad is in the basis of cash deposit is bad.*
- 5. Order of confirming the reopening of assessment on the basis of AIR Information is bad in law.*
- 6. No notice U/s sec. 148 of the act served on the assessee.*
- 7. Assessee reserve right to the file detailed/more grounds of appeal at the time of hearing of the case.*

3. The brief facts of the case are that on the basis of AIR information has been received that the assessee has deposited cash of Rs.54,51,000/- in his bank account with Punjab National Bank, Ghaziabad during F.Y. 2009-10 relevant to A.Y.2010-11. In compliance to the verification letter issued. No reply was received from the assessee. Notice u/s. 148 was issued and served upon the assessee. Nobody attended the proceedings. Notice u/s. 142 (1) alongwith questionnaire was issued to the assessee, but no compliance was made. Show cause notice u/s. 144/147 of the Act was issued to the assessee fixing date of hearing but nobody

attended appear on behalf of the assessee failing which the AO has made the addition of cash deposit of Rs 54,51,000/- as unexplained income u/s 69 r.w.s.68 and penalty proceedings was also initiated u/s 271 (1)(c) of the Act.

4. Aggrieved by the order of the AO, the assessee has filed appeal before the CIT(A) who vide his order dated 24-01-2023 dismissed the appeal as time barred against which the assessee is in appeal before us. The CIT(A) has observed as under :-

*"In pursuant to the notice issued dated 24/08/2022 the assessee didn't comply with till date. Meaning thereby, assessee did not have anything to furnish substantiate its contentions. Merely stating "All Cash Deposited out of the cash Withdrawal or money given to other was taken back in Cash and deposited in the Bank" and not providing any documentary evidences in support of his contention will not serve the purpose of the assessee. Hence, I find that assessment order passed u/s 144 r.w.s. 147 of the Act is a valid order and ample opportunities of being heard have also been accorded to the assessee. Keeping in mind these facts and circumstances of the case and in absence of any documentary evidences in support of the assessee's contention, I do not find any reason for further intervention in the assessment order so passed; therefore order passed u/s 144 r.w.s. 147 of the Act is hereby sustained.*

*Assessee's appeal fails Gr. 1.*

*[2] To sum up assessee's appeal is dismissed."*

5. The Counsel for the assessee has submitted that the notice and order were not served on the correct address of the assessee. He has further submitted that the application for condonation of delay should be allowed and appeal should have been heard on merit. He has also submitted that the assessee has filed the condonation application to condone the delay but the application was rejected by the Ld. CIT(A). The assessee relying upon the following judicial decisions :-

*1. Neelkanth Plywood Pvt. Ltd. Vs. ITO*

*2. GKN Driveshaft India Pvt. Ltd. Vs. ITO*

*3. Hameede Begum Vs. ITO*

6. The Ld. DR fairly conceded to this.

7. We have considered the rival arguments made by both the sides, perused the orders of the authorities below and the paper book filed on behalf of the assessee. Perusal of the order of the Ld.CIT(A) reveals that the appeal was not admitted for adjudication being treated time barred and condonation application was rejected. The assessee has not attended the proceedings before the AO and his appeal was also dismissed

without condoning the delay in filing the appeal. The Ld counsel for assessee has stated that assessee wants to take part in the proceedings. Therefore, in the interest of justice and fair play we restore the issue to the file of the AO and AO is directed to decide the matter afresh after giving the opportunity of being heard to the assessee. The appeal of the assessee is liable to be allowed for statistical purpose.

8. In the result the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 22.11.2024.

**Sd/-**  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

\*NEHA, Sr. PS\*

Date:- .11.2024

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(Appeals)
- 5.DR: ITAT

**Sd/-**  
**(SUDHIR KUMAR)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI