

आयकर अपीलीय अधिकरण, कोलकाता पीठ "ए", कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH: KOLKATA
श्री राजपाल यादव, उपाध्यक्ष एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष
[Before Shri Rajpal Yadav, Vice-President & Shri Rajesh Kumar, Accountant Member]

I.T.A. No. 758/Kol/2024
Assessment Year: 2017-18

Shankar Prasad Gupta (PAN: ADYPG 0948 G)	Vs.	AO, Cir-29, Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	24.10.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	20.11.2024
For the Appellant/ निर्धारिती की ओर से	Shri Miraj D Shah, A.R
For the Respondent/ राजस्व की ओर से	Shri Pradip Kumar Biswas, Addl. CIT

ORDER / आदेश

Per Rajesh Kumar, AM:

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)"] dated 01.02.2024 for AY 2017-18.

2. At the outset, the ld. Counsel for the assessee submitted that the assessment as well as appellate orders were framed ex-parte when the assessee did not appear before the authorities below. The Ld. Counsel submitted that the non-appearance was not

attributable to the failure of the assessee as a matter of fact the assessee did not receive any notice and therefore could not appear to attend the proceedings before either of the authorities. The Ld. Counsel for the assessee submitted that the addition made by the AO of Rs. 36,01,753/- as unexplained cash credit on account of cash deposits which could not be explained by the assessee and was added without there being documents or evidences on record. The Ld. A.R therefore prayed that the appeal of the assessee may kindly be restored to the file of AO so that the assessee gets one more opportunity to present his case before the AO and the assessment is framed de novo after taking into account the contentions of the assessee.

3. The Ld. D.R on the other hand relied on the authorities below by submitting that the assessee did not appear before either of the authorities despite granting several opportunities however left the issue to the wisdom of the bench.

4. After hearing the rival contentions and perusing the material on record, we find that the orders of AO as well as Ld. CIT(A) were passed ex-parte. We note that the addition made by the AO was on account of unexplained cash deposits which were made on the basis of facts available before the AO. In our opinion, the issue is required to be examined at the level of AO afresh in the light of the evidences and arguments which the Counsel of the assessee may furnish before the AO to well serve the ends of justice. Accordingly, we set aside the order to the file of AO to decide the issue afresh after affording a reasonable opportunity of hearing to the assessee.

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

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

Sd/-

Sd/-

(Rajpal Yadav /राजपाल यादव)
Vice-President/उपाध्यक्ष

(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

Dated: 20th November, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Shankar Prasad Gupta, 239, Roy Bahadur Road, Behala, Kolkata-700053
2. Respondent – AO, Circle-29, Kolkata
3. Ld. CIT(A)- NFAC, Delhi
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata