

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'C': NEW DELHI)**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND**

SHRI SUDHIR PAREEK, JUDICIAL MEMBER

ITA No:- 2780/Del/2024

(Assessment Year: 2017-18)

Jaswinder Kaur, A-35/2, Mayapuri Industrial Area, Phase 1, New Delhi-110064.	Vs.	Assistant Commissioner of Income Tax, Circle 45(1), Civic Centre Minto Road, New Delhi- 110002.
APPELLANT		RESPONDENT
PAN No: AACPA8633R		

Assessee By : Shri K. Sampath, Adv. &
Shri V. Rajakumar, Adv.
Revenue By : Shri Om Prakash, Sr. DR

Date of hearing : 12.11.2024

Date of Pronouncement : 12.11.2024

PER SUDHIR PAREEK, JM :

This appeal is filed by the Assessee against the order dated 16.01.2024 of National Faceless Appeal Centre (NFAC), Delhi, [hereinafter referred to as Ld. CIT(A)] pertaining to Assessment Year 2017-18, on the following grounds:

“1. On the facts and in the circumstances of the case and in law the Ld. CIT(A) at NFAC, Delhi erred in confirming the following action of the Assessing Officer-

- 1. Making an addition of a sum of Rs. 5,34,77,173/- by invoking the provisions of section 69A, on account of alleged cash received against sales made during the period 09/11/2011 to 31/12/2016 in specified bank notes, which ceased to be legal tender after 8th November 2016.*

The above action being arbitrary, fallacious, contrary to facts of the case unwarranted, leads to double taxation and against the principle of natural justice may be quashed and in direction for appropriate relief.”

2. Brief facts of this case may be summarized as that the Assessee / Appellant e-filed his return of income for the A.Y. 2017-18 declaring total income of Rs. 27,32,430/-. Thereafter the case was selected for scrutiny with the issue regarding cash deposits during demonetization period and notice u/s 143(2) and 142(1) of the Act was issued on 24.09.2018 and 28.01.2019, 14.03.2019 respectively, which were served upon the assessee / appellant. The Ld. AO made addition of Rs. 5,34,77,173/- to the total income of the appellant treating the cash sales claimed during the demonetization period unexplained. Thereafter, the assessee / appellant filed appeal before the Ld. CIT(A), which was dismissed vide impugned order.

3. Heard rival submissions and carefully perused the materials on record for disposal of this appeal.

4. the Assessee / Appellant presented the application for condonation of delay in filing appeal u/s 253(5) of the Act, by stating that the delay of 80 days in filing the present appeal is attributed to the communication gap on account of the change of the e-address and it needs to be clarified that the need for the change of e-address arose due to the closure of the business and also submitted that such a delay is neither intentional nor deliberate deserves to be condoned. Ensuring the object of justice, we are inclined to condone the delay occurred in filing appeal as stated above, in filing the appeal and adjudicate the matter on its merits.

5. The learned CIT(A) stated in impugned order that several notices u/s 250 of the Act were sent to appellant requiring him to furnish written submission alongwith documentary evidences electronically but no compliance has been made to these abovementioned notices.

6. In this context, the Ld. AR submitted that the NFAC, did not take cognizance of the e-mail ID as mentioned in Column 17 of Form 35 as sent notices elsewhere as per list of dates appearing on pages 8 and 9 on the impugned order. He also submitted that the business of the assessee was discontinued after November 2023 and with this discontinuation of the business the accountant also left, who was using as email ID viz. bharattrading333@gmail.com. He further submitted that in the reported absence of any response from the Appellant to the notices allegedly sent by the NFAC, the appeal before it were decided by NFAC entirely on the basis of the grounds of the appeal and statement of facts and records, only. The NFAC did not consider the issues in the appeal on merits. After reiterating the version of the AO, the NFAC confirmed the addition made in the assessment order to dismiss the appeal of the assessee. The appellant order as passed by the NFAC was also for the same reasons not served on the Appellant. The e-mail ID provided in Col. No.17 of the Appeal Form No.35 was ignored by the NFAC for dispatch purposes too.. The Appellant came to know of the fact of the appellate order having been passed by the NFAC ex-parte when its portal was accessed by the Chartered Accountant of the assessee

for other purposes. Further, he submitted that since the NFAC has not decided the appeal filed by the Appellant on merits and has done so without providing any opportunity for hearing to ensure the principal of natural justice and for the reasons as mentioned hereinbefore, the appeal deserves to be restored in the NFAC for a redo, and he prayed that the matter be remitted back to the NFAC for proper verification as he had not given proper opportunity of being heard and he undertakes to co-operate with the proceedings before assessment authority.

7. Per contra, Learned Senior Departmental Representative (hereinafter referred to as 'Ld. Sr. DR'), relied upon the order passed by lower authorities by stating that there is no substance in present appeal and ample opportunities been afforded to assessee / appellant.

8. In our humble opinion, object of law is to ensure substantive justice and Rule of Law are just to handmaid to the administration of justice. Discussion and observations as hereinbefore enables us to reach this conclusion that the object of justice will fulfilled if one

more opportunity may provide to assessee / appellant in order to resolve the dispute thoroughly.

9. Upon hearing both the parties, and overall circumstances, without discussing on merits of the case, matter is remitted back to the NFAC with the direction to afford meaningful and effective opportunity in accordance with law to the assessee/ appellant and decide afresh. The assessee / appellant shall co-operate in the proceeding for expeditious disposal before NFAC with providing all material / document / evidence in support of his claim and will not seek unnecessary adjournments.

10. Consequently, this appeal is allowed as indicated above for statistical purpose.

Order pronounced in the Open Court on 12.11.2024

Sd/-

**(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER**

Sd/-

**(SUDHIR PAREEK)
JUDICIAL MEMBER**

Dated: 12.11.2024
Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI.

Date of dictation	14.11.24
Date on which the typed draft is placed before the dictating Member	14.11.24
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	