

IN THE INCOME TAX APPELLATE TRIBUNAL “K(SMC)” BENCH, MUMBAI

BEFORE SHRI OM PRAKASH KANT, AM AND  
MS. KAVITHA RAJAGOPAL, JM

ITA No. 4231/Mum/2024  
(Assessment Year: 2017-18)

Paresh R Pujara HUF A-3/10, Chitaranjan Nagar, Rajawadi Ghatkopar (E), Mumbai-400 077	Vs.	ITO Ward 27(2)(5) Room No. 421, 4 <sup>th</sup> Floor, Tower No. 6, Vashi Railway Station, Commercial Complex, Vashi, Mumbai-400 703
PAN/GIR No. AAJHP 4668 L		
(Assessee)	:	(Respondent)
Assessee by	:	Shri Shashank Mehta
Respondent by	:	Shri Tushar Mohite
Date of Hearing	:	17.10.2024
Date of Pronouncement	:	28.11.2024

**ORDER**

**Per Kavitha Rajagopal, J M:**

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) (‘ld.CIT(A) for short), National Faceless Appeal Centre (‘NFAC’ for short) passed u/s.250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2017-18.

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

- In the facts and circumstances of the case and in law, the Learned National Faceless Appeal Centre (NFAC), CIT (Appeals) has, erred in upholding the Assessment Order passed in gross violation of the principle of Natural Justice.*
- In the facts and circumstances of the case and in law, the Learned National Faceless Appeal Centre (NFAC), CIT (Appeals) has erred in dismissing the appeal without condoning the delay in filing the appeal.*
- In the facts and circumstances of the case and in law, the Learned National Faceless Appeal Centre (NFAC), CIT (Appeals), Mumbai has erred in upholding the addition of Rs.*

*12,37,080/- being total deposits during demonetization period along with cash deposits of Rs. 12,01,000/- under section 69A of the Act.”*

3. Brief facts of the case are that the assessee is a Hindu Undivided Family (HUF) and had not filed its return of income for the year under consideration. The assessee's case was selected for scrutiny based on the information gathered during the phase of online verification under 'Operation Clean Money' where it was found that the assessee has deposited demonetized Specified Bank Notes (SBN) in its Axis bank account aggregating to Rs. 12,01,000/- between 9<sup>th</sup> November, 2016 to 30<sup>th</sup> December, 2016. The assessee has also not filed its return of income in response to notice u/s. 142(1) of the Act. The Id. Assessing Officer (Id. A.O. for short) passed the assessment order u/s. 144 of the Act vide order dated 30.09.2019 being the best judgment assessment for the reason that the assessee was non compliant during the assessment proceedings and determined the total income at Rs. 12,37,080/- after making an addition u/s. 69A of the Act being unexplained cash credit.
4. Aggrieved the assessee was in appeal before the first appellate authority, challenging the assessment order.
5. The Id. CIT(A) vide order dated 19.06.2024, dismissed the appeal filed by the assessee without condoning the delay of 1321 days in filing the appeal before the First Appellate Authority.
6. The assessee is in appeal before us, challenging the impugned order of the Id. CIT(A).
7. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee has challenged the additions made by the Id. A.O. before the first appellate authority but has filed the appeal belatedly with a delay of 1321

days beyond the prescribed period of limitation. The ld. CIT(A) has rejected the appeal of the assessee for the reason that the assessee has failed to substantiate that there was 'sufficient cause' for the said delay.

8. The learned Authorised Representative (ld. AR for short) for the assessee contended that the assessee has got a good case on the merits and prayed that the assessee may be given one more opportunity to present its case before the lower authorities. The assessee had also filed an affidavit stating the reason for inordinate delay in filing the appeal before the ld. CIT(A).
9. The learned Departmental Representative (ld. DR for short) vehemently opposed to setting aside the issue to the lower authorities for the reason that the assessee was given sufficient opportunity before the ld. AO as well as before the ld. CIT(A) but has not availed of the same. The ld. DR relied on the order of the lower authorities.
10. In the above factual matrix of the case, it is observed that the assessee has been non compliant before the lower authorities and has not furnished any documentary evidence to substantiate the source of the cash deposit made in its bank account during demonetization period. In the interest of justice, we are inclined to extend the assessee one more opportunity to present its case before the ld. AO by adhering to the principles of natural justice. The assessee is directed to cooperate in the proceeding before the ld. AO without any undue delay from its side and the ld. AO is to decide the issue on the merits of the case as per the submission of the assessee. We therefore remand all these issues back to the file of ld. AO for *de novo* assessment.

11. In the result, the appeal filed by the assessee is allowed for statistical purpose.

*Order pronounced in the open court on 28.11.2024*

Sd/-  
(Om Prakash Kant)  
Accountant Member

Sd/-  
(Kavitha Rajagopal)  
Judicial Member

Mumbai; Dated: 28.11.2024  
Karishma J. Pawar (Stenographer)

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai