

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“D” BENCH, MUMBAI**  
**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER**  
**AND**  
**SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**  
**ITA No.4755/M/2024**  
**Assessment Year: 2017-18**

<b>Mahalaxmi Transport</b> Gut No.284/4, Near Mahalaxmi Complex, Kudus Wada, Thane- 421312. <b>PAN:AALFM8773H</b>	Vs.	<b>CIT- (Appeals) – NFAC</b> Mumbai.
<b>Appellant</b>	:	<b>Respondent</b>

**Present for:**

**Assessee by**

: Shri Pravesh Agarwal

**Revenue by**

: Shri R. R. Makwana, Sr. DR.

**Date of Hearing**

: 14.11.2024

**Date of Pronouncement**

: 29.11.2024

**ORDER**

**Per Beena Pillai, JM:**

Present appeal filed by the assessee arises out of order dated 18/07/2024 passed by NFAC Delhi/Ld.CIT(A) for assessment year 2017-18 on following grounds of appeal:



1. *“The learned CIT (A) has erred in making addition of amount Rs 1,53,70,440/- made towards cash deposited in the Bank account without going into the facts of the case. The appellant craves leave to add, amend, alter and/ or delete the above grounds of Appeal at the time of hearing.”*

**2.** The Ld.AR submitted that the only issue that was considered in the assessment year post reopening of assessment was in respect of the cash deposits made by the assessee during the year under consideration.

**2.1.** He submitted that assessee could not appear before the authorities below with proper evidences as the notices were issued during lockdown of Covid-19, and therefore there was non-compliance.

**2.2.** He submitted that, the first appellate authority, did not take cognizance of the submissions of the assessee in respect of opportunity not been granted during assessment proceedings and decided the issue by observing as under:-

*“Given the appellant's lack of documentary evidence, and failure to provide satisfactory explanations for the cash deposits, the addition made by the AO under section 69A of the Act is justified. The cash deposits in question are deemed to be unexplained income, and the assessment order is in accordance with the provisions of the Act.”*

**2.3.** The Ld.DR on the contrary was objected to the issue to be remanded to the authorities below.



We have perused the submissions advanced by both sides in the light of the records placed before us.

**3.** We note that assessee has not been granted opportunity of being heard in the present facts of the case. In the interest of justice we remand this issue back to the file of Ld.AO for necessary verification considering the fact that the year under consideration persist to the financial year in which the demonetized cash was deposited into the bank account of the assessee.

**3.1.** It is also noted that, the authorities below did not consider following circulars issued by the CBDT in order to verify the demonetized cash deposited into the accounts of the assessee.

- a) The 1<sup>ST</sup> instruction was issued on 21/02/2017 by instruction number 03/2017.
- b) The 2<sup>nd</sup> instruction was issued on 03/03/2017 instruction number 4/2017.
- c) The 3<sup>rd</sup> instruction was in the form of a circular dated 15/11/2017 in F. No. 225/363/2017-ITA.II and the last one dated 09/08/2019 in F. No.225/145/2019-ITA.II.

**3.2.** The assessing officer is directed to verify the demonetised cash deposited during the year under consideration based on the circular that is applicable to the assessee in the present facts. The assessee is directed to furnish PAN and KYC details of all the depositors in



order to assist the Ld.AO to consider the claim in accordance with law.

**Accordingly the grounds raised by the assessee stands partly allowed for statistical purpose.**

**In the result the appeal filed by the assessee stands partly allowed for statistical purpose.**

**Order pronounced in the open court on 29.11.2024.**

**Sd/-  
PRABHASH SHANKAR  
ACCOUNTANT MEMBER**

**Sd/-  
BEENA PILLAI  
JUDICIAL MEMBER**

Place: Mumbai,

Dated: 29.11.2024

*Snehal C. Ayare, Stenographer/Dragon*

**Copy of the order forwarded to :**

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

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**