

आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA

Before Shri Sonjoy Sarma, Judicial Member and Shri Rakesh Mishra, Accountant Member

I.T.A. No.1861/Kol/2024

Assessment Year: 2017-18

Syed Sirajuddin Mir... ..Appellant

Sujagalpur Kalsa, Falta,
South 24 Parganas, West
Bengal – 743503.

[PAN: AVLPM4850A]

vs.

ACIT, Circle-10(1), Kolkata Respondent

Appearances by:

Shri Swarup C Kayal, CA, appeared on behalf of the appellant.

Shri Rajak Datta, DR, appeared on behalf of the Respondent.

Date of concluding the hearing : December 02, 2024

Date of pronouncing the order : December 03, 2024

आदेश / ORDER

Per Sonjoy Sarma, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 05.07.2024 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The brief facts of the case are that a notice u/s 142(1) of the Act was issued on 23.03.2018 directing the assessee to file a true and correct return of income for the assessment year 2017-18. The notice was sent by post requiring the assessee to furnish return as prescribed under Rule 12 of the Income Tax Rules, 1962. However, the assessee has failed to file return u/s 139 of the Act or in response to the notice issued u/s 142(1) of the Act before 31.03.2018. Based on data analytics, it was found by the Assessing Officer that the assessee had deposited substantial amount of cash of Rs.25,20,000/- in his bank account during the demonetization period i.e. 09.11.2016 to

30.12.2016. Consequently, the Assessing Officer added Rs.25,20,000/- as unexplained income and Rs.89,558/- was added as Customer Service Point (in short 'CSP') commission in the hands of the assessee. The assessment was completed u/s 144 of the Act due to non-compliance.

3. Aggrieved by the above order, the assessee filed an appeal before the ld. CIT(A) but failed to get any favourable relief.

4. Dissatisfied with the order of the ld. CIT(A), the assessee filed appeal before this Tribunal raising several grounds. The ld. AR submitted that the assessee was a certified cash collector for CSP in UBI and was empowered to collect cash on behalf of the bank in different points from the customers and all the amounts were deposited during the demonetization period were not related to assessee's own cash but it were customers' cash and the assessee received the commission from the bank for his designated job. However, the ld. AR stressed on the point that due to circumstances beyond his control, he could not file necessary documents before the Assessing Officer and also CIT(A) to prove his case. These documents which justify his claim were not available at time of framing of assessment u/s 144 of the Act before the Assessing Officer and therefore, the assessee was unable to explain the reasons of depositing cash during the demonetization period before the Assessing Officer. The ld. AR prayed before us that another opportunity may be given to the assessee so as to enable the assessee to furnish relevant documents before the Assessing Officer to substantiate his claim.

5. On the other hand, the ld. DR has not raised any objection regarding the submission made by the ld. AR.

6. We, after considering the rival submissions and reviewing the documents available on record, find that the inability of the assessee to

furnish relevant documents during the assessment proceedings and also appellate proceedings hindered proper adjudication and decided the issue against the assessee by the lower authorities. We, therefore, in the interest of natural justice and fair play, deem it necessary to provide the assessee with an opportunity to submit the required or relevant documents to substantiate his claim before the Assessing Officer. Accordingly, we remand the issue to the file of the Assessing Officer for fresh adjudication. The Assessing Officer is also directed to re-examine the submissions and documents of the assessee and pass a fresh order in accordance with law.

7. In terms of the above, the appeal of the assessee is allowed for statistical purposes.

Kolkata, the 3rd December, 2024.

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sonjoy Sarma]

न्यायिक सदस्य/Judicial Member

Dated: 03.12.2024.

RS

Copy of the order forwarded to:

1. Syed Sirajuddin Mir
2. ACIT, Circle-10(1), Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches