

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

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT
AND
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER,**

**ITA No:- 3543/Del/2024
(Assessment Year- 2011-12)**

Ajay Kumar Jain, Delhi.	Vs.	ITO- 48(2), Delhi.
PAN No: AESPJ8141B		
APPELLANT		RESPONDENT

Assessee by : None
Revenue by : Shri Yogesh Nayyar, Dr. DR

Date of Hearing : 10.12.2024
Date of Pronouncement : 10.12.2024

ORDER

PER BENCH:

This appeal by the Assessee is arising out of the order of the Commissioner of Income Tax (Appeal), NFAC, New Delhi, in appeal no. CIT(A), Delhi-16/10006/2019-20 vide order dated 28.03.2024.

2. At the outset, it is noticed that this appeal is barred by limitation by 68 days. The order of the CIT(A) dated 28.03.2024,

and the date of communication or service of order is 28.03.2024, whereas appeal was filed by the assessee on 03.08.2024. The appeal should have been filed on or before 27.05.2024, whereas it was filed on 03.08.2024, thereby there is a delay of 68 days. The assessee has filed the condonation petition, and the same is not opposed by Ld. Sr. DR. Hence, after going through the contentions, we condone the delay and admit the appeal.

3. None is present from assessee's side, but going through the grounds of appeal and the order of CIT(A), it is noticed that order of CIT(A) is ex-parte and the assessee has raised the following ground of appeal:

"6. that the Ld. CIT(A) erred in law and fact by dismissing the order ex-parte even though a compliance was made before him on the income tax portal."

4. We noticed that the issue is regarding the reopening of assessment as well as the addition of unexplained cash of Rs. 85,34,373/- made by the Assessing Officer u/s 69A of the Act as unexplained money. We noted from the order of CIT(A), that it is ex-parte qua assessee, but even on merits, he has not adjudicated the

issue with a speaking order. We noted that the CIT(A) admitted the fact that the assessee had filed some details, which were never examined nor discussed in the order, in regard to cash deposit of Rs. 85,34,373/-. In the interest of natural justice, we are of the view that a reasonable opportunity should be provided to the assessee to explain its case and CIT(A) should also examine the documents filed by the assessee. Hence, we set aside the order of the CIT(A) and remand the matter back to his file for fresh adjudication. For this proportion, the Ld. Sr. Dr has no objection. The matter is remanded back to the CIT(A), hence this appeal is allowed for statistical purpose.

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

Order pronounced in the Open Court on 10.12.2024

Sd/-
(S. RIFAUH RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Dated: 10/12/2024.
Pooja/-

Copy forwarded to:
1. Appellant
2. Respondent
3. CIT

4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	10.12.2024
Date on which the typed draft is placed before the dictating Member	10/12/2024
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	