

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.1862/Ahd/2024
(Assessment Year: 2017-18)

Vipulkumar Balchandandbhai Doshi C/o. Divyang Shah & Co., Chartered Accountants, 201, Devashish Complex, Nr. Regenta Central Antarim Hotel, Off. C.G. Road, Ahmedabad-380001	Vs.	Income Tax Officer, Ward-1(3)(5), Ahmedabad
[PAN No.ADGPD6961L]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Maulik Kansara, A.R.
Respondent by:	Shri V. K. Mangla, Sr. D.R.

Date of Hearing	17.12.2024
Date of Pronouncement	18.12.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre, (in short “NFAC”), Delhi vide order dated 30.08.2024 passed for A.Y. 2017-18.

2. The Assessee has taken the following grounds of appeal:-

“1. Whether, on facts and in circumstances of the case and in law, Ld. CIT(A) erred in confirming addition u/s.68 of the act for cash deposited amounting to Rs.34,75,000/-?”

2. Whether, on facts and in circumstances of the case and in law, Ld. AO erred in issuing notice u/s. 143(2) of the act?

Further, appellant craves leave to add, amend, alter or withdraw all or any ground of appeal.”

3. The brief facts of the case are that the present case pertains to certain additions made to the income of the assessee on account of cash deposits during the demonetization period amounting to Rs.34,75,000/-. During assessment proceedings, the Assessing Officer issued several notices of hearing, and in absence of any response by the assessee, the Assessing Officer added the entire amount as income of the assessee u/s 68 of the Act read with 115BBE of the Act. While making the addition, no benefit of cash withdrawals from the bank account was given to the assessee. In appeal, the assessee submitted that he could not appear before the Assessing Officer since he did not receive notices from the Assessing Officer due to change in his e-mail id. In proceedings before Ld. CIT(Appeals), the assessee filed written submissions, in which the assessee gave explanation regarding source of cash deposits made during demonetization period, as being sourced out of sales receipts from customers to whom the assessee had sold gold bars, gold ornaments etc. During the appellate proceedings, the assessee also submitted additional evidences in support of his case under Rule 46A of the IT Rules. However, Ld. CIT(Appeals) refused to admit additional evidence sought to be filed by the assessee on the ground that the assessee has not been able to make out a fit case for not producing such evidence before the Assessing Officer. Accordingly, Ld. CIT(Appeals) confirmed the order of the Assessing Officer.

4. Before us, the Counsel for the assessee submitted that Ld. CIT(Appeals) has passed appellate order against the principles of natural justice, without giving any opportunity to the assessee to submit evidence in support of his case which ought to have been admitted in the interest of justice, since the same goes to the very root of the matter. The Counsel for the assessee submitted that the assessee has a good case on merits and if given an opportunity of hearing, the

assessee would be able to produce the necessary documents in support of his case.

5. On going through the facts of the case, we observe that the assessee has sought to place additional evidence on record, which was refused to be admitted by Ld. CIT(Appeals), Even the proceedings before the Assessing Officer were conducted on ex-parte basis, for which the Counsel for the assessee has submitted that the assessee could not participate in assessment proceedings since there was a change in e-mail id of the assessee, and therefore he did not receive the notices of hearing issued by the Assessing Officer. It was for these reasons that the assessee could not prove evidence in support of it's case during assessment proceedings. Looking into the instant facts, we are of the considered view that in the interest of justice, matter may be restored to the Assessing Officer for fresh hearing and to decide the matter after giving due opportunity of hearing to the assessee.

6. In the result, appeal of the assessee is allowed for statistical purposes.

This Order is pronounced in the Open Court on 18/12/2024

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT

Ahmedabad; Dated 18/12/2024

TANMAY, Sr. PS

TRUE COPY

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद/ ITAT, Ahmedabad