

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

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

I.T.A. No.1875/Ahd/2024  
(Assessment Year: 2017-18)

Rohitkumar Chinulal Shah, C/o. M S Chhajer & Co. CA, “Kamal Shanti”, Nr. Sardar Patel Statue, Ahmedabad-380014	Vs.	Income Tax Officer, Ward-2(1)(2), Ahmedabad
<b>[PAN No.ALXPS4833P]</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri Mahesh Chhajer, A.R.
<b>Respondent by:</b>	Shri V. K. Mangla, Sr. D.R.
<b>Date of Hearing</b>	17.12.2024
<b>Date of Pronouncement</b>	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 25.06.2024 passed for A.Y. 2017-18.

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

- “1. *The order passed by the Ld. CIT(A) is against law, equity & justice.*
2. *The Ld. CIT(A) has erred in law in upholding validity of re-opening of assessment as order u/s 127 of the Act was not passed to transfer the jurisdiction to Ld. AO.*
3. *The Ld. CIT(A) has erred in law and on facts in upholding the validity of assessment order passed by Ld. AO u/s 144 of the Act.*
4. *The Ld. CIT(A) has erred in law in upholding the fact of addition made by Ld. AO by relying on books of accounts while appellant has opted for Sec. 44AD of the Act.*

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5. *The Ld. CIT(A) has erred in law and in upholding the fact of addition made by Ld. AO by invoking section 69A of the Act for amount deposited in Bank.*

6. *The Ld. CIT(A) has erred in law and facts in upholding addition of Rs. 39,27,695/- U/s 69A of the Act.*

7. *Appellant craves liberty to add, amend, alter or modify all or any grounds of appeal before final hearing.”*

3. At the outset, we observe that there is a delay of 65 days in filing of the present appeal. The assessee has filed an Affidavit in which he has stated that though the Ld. CIT(A) passed an order on 25.06.2024. The assessee inadvertently failed to notice the passing of above order by Ld. CIT(A). The assessee noted that order had been passed by Ld. CIT(Appeals), only upon receiving the show cause notice u/s 271AAC(1) on 16.09.2024, and it is then that the assessee noticed on the IBTA portal that the CIT(A) had already passed the order. Consequently, there was an inadvertent delay in filing the present appeal. The assessee submitted that the order was passed by Ld. CIT(Appeals) on ex-parte basis and that the assessee has a good case on merits and there was a bona fide reason for the present delay in filing of appeal. Looking into the contents of Affidavit filed by the assessee, we are hereby condoning the delay of 65 days in filing of the present appeal.

4. On merits, the Counsel for the assessee submitted that the present case pertains to certain additions made to the income of the assessee on account of cash deposits during the demonetization period. During assessment proceedings, the assessee furnished various details which were omitted to be considered by the Assessing Officer. While making the addition, no benefit of cash withdrawals from the bank account was also given to the assessee. In appeal, Ld. CIT(Appeals) passed ex-parte order, against the principles of

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natural justice, without giving any opportunity of hearing to the assessee. The Counsel for the assessee stated that the assessee has a good case on merits and would be able to produce necessary evidence if given an opportunity of hearing.

5. In view of the facts of the instant case, 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.

<b>This Order is pronounced in the Open Court on</b>	<b>18/12/2024</b>
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**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