

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH 'SMC', LUCKNOW**

BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER

I.T.A. No.250/Lkw/2024
Assessment Year:2017-18

Shri Susheel Kumar Sharma, 495/56, Maya Nagar, Hasanganj, Daliganj, Lucknow. PAN:DGJPS6781Q (Appellant)	Vs.	Income Tax Officer-4(4), Lucknow. (Respondent)
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Appellant by	None
Respondent by	Shri Sanjeev Krishna Sharma, Addl. CIT (D.R.)

ORDER

(A) This appeal vide I.T.A. No.250/Lkw/2024 has been filed by the assessee for assessment year 2017-18 against impugned appellate order dated 31/10/2023 (DIN & Order No.ITBA/NFAC/S/250/2023-24/1057539193(1) of Commissioner of Income Tax (Appeals) ["CIT(A)" for short]. In this appeal, the assessee has raised the following grounds:

- "1. *On the facts and circumstances of the case the Ld. CIT(A) vide order u/s 250 having DIN and order no. ITBA/NFAC/S/250/2023-24/1057539193(1) dt. 31,10.2023 has erred in confirming the addition made by the AO to the tune of*

Rs.14,05,000/- made u/s 69A on account of cash deposited during demonetization period.

2. *That the Ld. CIT(A) has erred in confirming the addition of Rs.14,05,000/- without appreciating that the Ld. AO has erred in treating the deposits made during demonetization period as unexplained money u/s 69A.*
3. *That the Ld. CIT(A) has erred in confirming the addition under section 69A ignoring the fact that the provisions of section 69A cannot be applied where no books of accounts were maintained."*
4. *That the Ld. CIT(A) has erred in confirming the addition of Rs.14,05,000/- on surmises and conjectures and without bringing on record any material to prove that the appellant was in receipt of any income other than income from practicing as advocate."*

(B) In this case assessment order dated 12/11/2019 was passed u/s 143(3) of the I. T. Act whereby the assessee's total income was assessed at Rs.18,26,540/-. In the aforesaid assessment order, additions were made, amounting to Rs.14,05,000/- u/s 69A of the Act and amounting to Rs.1,13,226/- u/s 44AD of the Act. The assessee filed appeal against the aforesaid assessment order in the office of learned CIT(A). Vide impugned appellate order dated 31/10/2023, the learned CIT(A) partly allowed the assessee's appeal. In the aforesaid appellate order dated 31/10/2023, the learned CIT(A) confirmed the addition of Rs.14,05,000/-. As regards the aforesaid addition of Rs.1,13,226/- made u/s 44AD of the Act, the learned CIT(A) directed the Assessing Officer to make further verification, thereby restoring the issue to the file of the Assessing Officer.

(C) At the time of hearing on 17/12/2024, there was no representation from the assessee's side. On earlier occasions, this appeal was fixed for

hearing on 20/06/2024, 06/08/2024, 22/08/2024 and 18/09/2024. The aforesaid hearings were adjourned either because there was no representation from assessee's side or because requests were received from assessee's side for adjournment. In absence of any representation from assessee's side at the time of hearing on 17/12/2024, learned D.R. for Revenue was heard.

(D) This appeal has been filed by the assessee, beyond time limit prescribed under section 253(3) of IT Act. As per noting of registry, this appeal is time barred. The assessee has submitted application for condonation of delay in filing of the appeal on medical ground, supported by medical certificate; pleading that the delay was unintentional and beyond the control of the assessee and has requested to admit the appeal for hearing. The learned Sr. Departmental Representative for Revenue did not express any objection to assessee's application for condonation of delay in filing of the appeal. In view of the foregoing, and in specific facts and circumstances of the present appeal before us, the delay in filing of this appeal is condoned; and the appeal is admitted for hearing.

(E) On merits, learned D.R. for Revenue submitted that the issue in dispute in the present appeal regarding the aforesaid addition of Rs.14,05,000/- should also be restored back to the file of the Assessing Officer with the direction to pass de novo order in the light of the fact that the other issue regarding addition u/s 44AD of the Act is already restored to the file of the Assessing Officer by the learned CIT(A). He submitted that it will be in the interest of justice and also will facilitate proper assessment if the aforesaid issue regarding addition of Rs.14,05,000/- is also restored back to the Assessing Officer so that he may take overall view in the light of

facts and circumstances of the case, prevailing law and decided precedents. Considering the aforesaid submissions made by learned D.R. for Revenue, the aforesaid issue regarding addition of Rs.14,05,000/- is restored back to the file of the Assessing Officer with the direction to pass de novo order in accordance with law after providing reasonable opportunity of being heard to the assessee.

(F) In the result, the appeal of the assessee is partly allowed for statistical purposes.

(Order pronounced in the open court on 18/12/2024)

Sd/.
(ANADEE NATH MISSHRA)
Accountant Member

Dated:18/12/2024
*Singh

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT

4. D.R., I.T.A.T.,
5. CIT(A)

Assistant Registrar