

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.2159/Bang/2024
Assessment Year: 2017-18

M/s. Gold Palace Jewellers #6, Dispensary Road Parallel to Commercial Street Bengaluru 560 001 PAN NO : AACFG2601H	Vs.	ACIT Circle-1(1)(1) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Sri Narendra Sharma, A.R.
Respondent by	:	Ms. Neha Sahay, D.R.

Date of Hearing	:	18.12.2024
Date of Pronouncement	:	18.12.2024

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against the order of CIT(A)/NFAC dated 4.7.2024 vide DIN & Order No.ITBA/NFAC/S/250/2024-25/1066405027(1) for the assessment year 2017-18. The assessee has raised following grounds of appeal:

1. The orders of the authorities below in so far as they are against the appellant are opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.

2. The learned CIT[A] is not justified in sustaining the addition of Rs.2,44,46,257/- made as unexplained money u/s.69A of the Act towards the "unexplained deposits" in the bank account of the appellant under the facts and in the circumstances of the appellant's case.

2.1 The learned CIT[A] failed to appreciate that the cash deposits in the appellant's bank account was from out of the cash sales made by the appellant during the year under appeal under the facts and in the circumstances of the appellant's case.

3. The learned CIT[A] ought to have appreciated that the addition of Rs. 2,44,46,257/- has been made in an arbitrary manner and without appreciating the bonafide explanation tendered by the appellant during the course of assessment proceedings appeal under the facts and in the circumstances of the appellant's case.

4. The learned CIT [A] is not justified in upholding the tax imposed under the provisions of section 115BBE under the facts and in the circumstances of the appellant's case.

5. Without prejudice to the above, the learned CIT[A] is not justified in disposing off the appeal of the appellant without providing the appellant a fair and effective opportunity of being heard under the facts and in the circumstances of the appellant's case.

6. For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for the refund of the institution fees as part of the costs.

2. Brief facts of the case are that the assessee is a partnership firm and engaged in the business of dealing in gold and diamond jewellery, silver articles and other precious metals. It purchases gold bullion from wholesalers, gets it converted into gold jewellery and sells the same. Further, the assessee firm also purchases old gold ornaments from individuals and converts the same into jewellery. For the assessment year 2017-18, the assessee firm filed its return of income on 29.10.2017 declaring total income of Rs.24,89,750/-. The case was there after taken up for complete scrutiny under CASS. The only issue that arose during the course of assessment proceedings is the source of cash deposited during the period of demonetization. During the course of assessment proceedings, as

the assessee failed to justify the source of cash deposited amounting to Rs.2,44,46,257/-, the AO treated the same as unexplained money u/s 69A of the Act and brought to tax in the assessee's hand.

2.1 Aggrieved by the assessment completed u/s 143(3) dated 23.12.2019, the assessee preferred an appeal before the Id. CIT(A)/NFAC. The assessee filed the appeal before Id. CIT(A)/NFAC electronically on 14.1.2020. Thereafter, two number of hearing notices were sent on 7.3.2020 and 13.3.2020 which were at the verge of Covid Pandemic. The Id. CIT(A)/NFAC passed the appeal order after a gap of more than 4 years on 4.7.2024 by dismissing the appeal of the assessee and the assessment of Rs.2,44,46,257/- as unexplained deposit u/s 69A of the Act is confirmed by the Id. CIT(A)/NFAC.

2.2 Aggrieved by the order of Id. CIT(A), the assessee has filed the present appeal before the Tribunal. The assessee has filed a paper book comprising 6 pages enclosing therein copies of the following:

1.	Copy of the screenshot of e-filing portal showing details of e-proceedings before NFAC/CIT[A]
2.	Copy of the details of the issue of notice u/s.250 of the Act dated 07/03/2020
3	Copy of the details of the issue of notice u/s.250 of the Act dated 13/03/2020
4.	Copy of the Enablement of Communication window dated 04/11/2022 issued by NFAC/CIT[A]
6.	Copy of the acknowledgement having responded to the above Enablement of Communication Window dated 16/03/2023

3. Before us, Id. A.R. of the assessee vehemently submitted that the appeal was instituted on 14.1.2020. Thereafter, the assessee has been served two notices for hearing on 7.3.2020 and 13.3.2020,

which is at the verge of the Covid Pandemic. Thereafter, after a gap of 4 years the ld. CIT(A) passed the order without giving reasonable opportunity of being heard, which is a gross violation of principles of natural justice.

4. Ld. D.R. on the other hand, supported the order of the authorities below.

5. We have heard the rival submissions and perused the materials available on record. On going through the appellate order, we note that the appeal of the assessee filed electronically on 14.1.2020 against the order of ld. DCIT Circle-1(2)(1), Bangalore passed u/s 143(3) of the Act on 23.12.2019. Thereafter, hearing notices were sent on 7.3.2020 and 13.3.2020. The appeal filed by the assessee is disposed of after taking into consideration the material available on record on 4.7.2024 i.e. after gap of more than 4 years. We find force in the argument of the ld. A.R. of the assessee that ld. CIT(A) has passed an order after a gap of more than 4 ½ years that too without providing any reasonable opportunity of being heard to the assessee. Being so, considering the submission of ld. A.R. of the assessee and in the interest of justice and fair play, we remit the matter to the file of ld. CIT(A)/NFAC for fresh consideration and decision as per law after affording a reasonable opportunity of being heard to the assessee. The assessee is directed to produce all the necessary documents/records/information in support of his case and shall not seek unnecessary adjournments. It is ordered accordingly.

6. In the result, appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 18th Dec, 2024

Sd/-
(Waseem Ahmed)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 18th Dec, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.