



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

BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.497/LKW/2024
Assessment Year: 2017-18

Tirlochan Singh Post Kadher Choura Rampur Kone, Puranpur Pilibhit	v.	The Income Tax Officer Ward 2(5) Pilibhit
TAN/PAN:DAMPS7604M (Appellant)		(Respondent)

Appellant by:	None		
Respondent by:	Shri Sunil Kumar Rajwanshi, D.R.		
Date of hearing:	04	12	2024
Date of pronouncement:	23	12	2024

ORDER

This appeal has been preferred by the assessee against the order dated 30.03.2024, passed by the Addl/JCIT(A), Mumbai for Assessment Year 2017-18.

2. The brief facts of the case are that the assessee e-filed his return of income for the year under consideration on 05.08.2017, declaring a total income of Rs.2,26,690/- plus Agricultural income of Rs.3,04,226/-. The case of the assessee was selected for scrutiny under CASS to examine the issue of cash deposit during the demonetization period. The Assessing Officer (AO) noticed that the assessee had deposited a total sum of Rs.10,83,000/- during the demonetization period in his two

Bank accounts maintained with Oriental Bank of Commerce, Puranpur. The AO issued statutory notices and the assessee was asked to explain the source of cash deposits. However, the assessee did not furnish any explanation about the nature and source of cash deposits. The AO, thereafter, reduced the amount of agricultural income of Rs.3,04,226/- declared by the assessee from the total cash deposit of Rs.10,83,000/- and treated the balance, i.e. Rs.7,78,774 (10,83,000 – 3,04,226) as unexplained income of the assessee under section 69A of the Income Tax Act, 1961 (hereinafter called “the Act”) and added the same to the total income of the assessee. The AO, accordingly, completed the assessment under section 143(3) of the Act, assessing the total income of the assessee at Rs.10,05,460/-.

3. The AO also initiated penalty proceedings under sections 270(1)AAC and 272A(1)(d) of the Act.

4. Aggrieved, the Assessee preferred an appeal before the Ld. First Appellate Authority. The appeal was migrated to the Ld. Addl/JCIT(A), Mumbai, who dismissed for the reason of delay in filing of the appeal before the Ld. First Appellate Authority.

5. Now, the assessee has approached this Tribunal challenging the dismissal of its appeal by the Ld. Addl/JCIT(A), Mumbai by raising the following grounds of appeal:

1. That Ld. authorities below have erred in law as well as on facts in adding Rs.778774/- u/s 69A of Income Tax Act 1961.

2. That Ld. authorities below have erred in law as well as on in invoking the provisions of section 115BBE of Income Tax Act 1961.

3. The assessee reserves the right to add, amend and delete any of the above grounds of appeal.

6. None was present for the assessee when the appeal was called out for hearing nor was any adjournment application moved in this regard. However, looking into the facts of the case, I proceed to adjudicate the appeal ex-parte qua the assessee.

7. During the course of hearing, it was brought to my notice that there is a delay of 73 days in filing the appeal before the Tribunal. The assessee has filed an application dated 18.07.2024 for condonation of delay, duly supported by an Affidavit and Medical Certificate, stating therein that the assessee was diagnosed with spine problem on 25.05.2024 and was advised for complete bed rest. Therefore, the appeal could not be filed within the stipulated period. It has been prayed that the delay be kindly condoned.

8. The ld. D.R. had no objection to the delay being condoned.

9. In view of the prayer made by the Assessee, duly supported by Affidavit, Medical Certificate and no objection by the ld. D.R., I condone the delay in filing of the appeal and admit the appeal for hearing.

10. The ld. Senior D.R. had no objection to the restoration of appeal to the Ld. Addl/JCIT(A), Mumbai.

11. I have heard the Ld. Sr. D.R. and have also perused the material on record. Looking into the facts of this case, I am of the considered view that the assessee deserves one more opportunity to present his case and, therefore, in the interest of substantial justice, I restore this file to the Office of the Ld. Addl/JCIT(A), Mumbai with the direction to give an opportunity to the assessee to explain the delay in filing the appeal and, thereafter, if the delay is properly explained, condone the delay and decide the appeal on merits after providing an opportunity to the assessee to present his case. I also caution the assessee to fully comply with the directions of the Ld. Addl/JCIT(A), Mumbai in the set-aside proceedings when called upon to do so, failing which, the Ld. Addl/JCIT(A), Mumbai would be at complete liberty to pass the order in accordance with law, based on material available on record even if it is ex-parte qua the assessee.

12. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 23/12/2024.

Sd/-
[SUDHANSHU SRIVASTAVA]
JUDICIAL MEMBER

DATED:23/12/2024

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR

By order

Assistant Registrar