

आयकर अपीलीय अधिकरण, कोलकाता पीठ "सी", कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH: KOLKATA

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

I.T.A. No. 295/Kol/2024
Assessment Year: 2017-18

Prakash Bhalotia (PAN: AEBPB 4599 N)	Vs.	ITO, Ward-44(3), Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	12.12.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	31.12.2024
For the assessee / निर्धारिती की ओर से	Shri Ashish Kumar, A.R
For the revenue / राजस्व की ओर से	Shri Vineet Kumar, Addl. CIT

ORDER / आदेश

Per Pradip Kumar Choubey, JM:

This is the appeal preferred by the assessee against order of Commissioner of Income Tax (Appeal)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)] dated 13.10.2023 for AY 2017-18.

2. At the outset, the Ld. Counsel for the assessee submitted that there is a delay of 62 days in filing the appeal. The Ld. Counsel for the assessee filed a condonation petition which is reproduced as under:



**AFFIDAVIT FOR CONDONATION OF DELAY IN FILING APPEAL BEFORE
 THE INCOME TAX APPELLATE TRIBUNAL.**

Before the Income Tax Appellate Tribunal at Kolkata Benches, Kolkata

In the matter of PRAKASH BHALOTIA [PAN-AEBPB4599N]

Assessment Year 2017-18

Affidavit of Mr. Prakash Bhalotia aged_49 years.

That I, the above named deponent, am well conversant with the facts deposed to below-

1. That the appeal filed by me before the Commissioner of Appeals was disposed of by order dated 13/10/2023 passed by National Faceless Appeal Centre (NFAC).
2. That the time for filing of the appeal before the Tribunal was to expire on 12/12/2023.

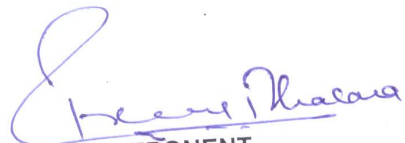
Prakash Bhalotia

RAMAL KUMAR PALA
 NOTARY GOVT OF INDIA
 Regd. No. 2708294

3. That due to some urgent and unplanned business travelling one by one during the period from Nov 2023 to January 2024 which cannot be avoided or avoidance of which can result into huge loss; and in between such excessive excursion caused by regular travelling, a huge mental stress cropped up and I became sick and infected by fever along with other health issues. Upon recovery, however not fully recovered yet, I managed to prepare the memo of appeal along with supporting documents. Hence therefore appeal could not be filed by 12.12.2023.

4. That the memo of Appeal has been filed on 12.02.2024 in the Office of the Tribunal.

5. That the application in memo of Appeal is bonafide may be allowed in the interest of justice.


DEPONENT

Signed at _Kolkata_ this _12th_ day of February, 2024


VERIFICATION

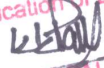
I, Prakash Bhalotia, the above named deponent do hereby verify on oath that the contents of the affidavit above are true to my personal knowledge and nothing material has been concealed or falsely stated.

Verified at _Kolkata_ this __12th_ day of February, 2024


DEPONENT


Identified by me
TINA DAS
Advocate
Regn No. - F-1322/21


KAMAL KUMAR PAUL
NOTARY GOVT OF INDIA
Regd. No. 2700/04
C.M.M's Court
2 & 3 Bankshall Street
Kolkata-700001

Solemnly Affirmed & Declared Before
me on Identification of Ld. Advocate

KAMAL KUMAR PAUL, NOTARY
of India. Regn No-2700/04

On perusal of the condonation petition, we condone the delay and admit the appeal for adjudication.

3. Brief facts of the case are that the assessee being an individual having commission and brokerage income. The return of income for the AY 2017-18 have been filed declaring total income of Rs. 7,24,055/-. The case of the assessee was selected for limited scrutiny for examining the issue of cash deposit during demonetization period. Notices u/s 143(2) and 142(1) of the Act was issued, the assessee failed to comply with the terms of notices and never responded, as result of which, cash deposits amounting to Rs. 63,11,500/- is deemed to be an unexplained money u/s 69A of the Act and added to the total income of the assessee.

4. The said order has been challenged by the assessee before the Ld. CIT(A) wherein the appeal of the assessee has been dismissed on the ground that the assessee in spite of giving sufficient opportunity did not furnish any necessary details/documentary evidences in support of his case.

Being aggrieved and dissatisfied with the order the assessee preferred an appeal before us.

5. The Ld. Counsel instead of entering into merit of the case has challenges the impugned order that the assessee has not been given any proper opportunity to be heard and his submission is that the assessee may be given an opportunity to place his case before the AO. He has filed medical papers in support of his contention of non-appearance before the AO as well as Ld. CIT(A). The Ld. Counsel has also filed bank certificate for deposit of cash during demonetization period.

6. Contrary to that the Ld. D.R supports the impugned order.

7. We have perused the order of AO as well as Ld. CIT(A), it appears that the AO has passed the order when there were no responses from the side of the assessee and further the Ld. CIT(A) has also dismissed the appeal of the assessee as there was no documentary evidence as well as details have been submitted by the assessee. We have

perused the documents filed by the assessee and find that the assessee has filed bank statement with regard to deposit during demonetization period, medical papers related to the assessee's wife Mrs. Aditi Bhalotia suffering from a critical disease commonly called as Brain Tumour, assessee's brother Mr. Sree Ram Bhalotia's medical paper and further submitted some documents related to the assessee's continuous engagement into business related travelling. The submission of the Id. Counsel for the assessee is that due to the aforesaid reason, the assessee could not be able to appear before the AO or before the Ld. CIT(A). His submission is that the assessee has sufficient documentary evidences in support of the case and he should be given an opportunity to place all those documents before the AO. There is no doubt that the order passed by the AO as well as the Ld. CIT(A) in absence of the assessee. In the interest of justice, we are inclined to give an opportunity to the assessee to place his case before the AO, by setting aside the order passed by A.O. and confirmed by the CIT(A). Accordingly, the case of the assessee is hereby restored in the file of the AO, AO is directed to pass a fresh order after hearing the assessee and going over the document placed by the assessee.

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

Order is pronounced in the open court on 31st December, 2024

Sd/-

(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

Sd/-

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)
Judicial Member/न्यायिक सदस्य

Dated: 31st December, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Prakash Bhalotia, 9, Jagmohan Mallick lane, Burrabazar-700007
2. Respondent – ITO, Ward-44(3), Kolkata
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata