

IN THE INCOME TAX APPELLATE TRIBUNAL PANAJI BENCH
PANAJI

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI G D PADMAHSHALI ACCOUNTANT MEMBER

I T A. Nos. 315/PAN/2024
(A.Y. 2017-18)

Salim Ali Darugar, H.no.18/13,Morod Mhapsa,Bardez, Noth Goa-403507, Goa.	Vs	ITO.Ward 2(1), Panaji-403001, Goa.
PAN .No. AUXPD0734F		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	Mr.Salim Ali.AR
Revenue by	Shri.Manikandan.S.Sr.DR

सुनवाई की तारीख/Date of Hearing	04.03.2025
घोषणा की तारीख/Date of Pronouncement	05.03.2025

ORDER

PER PAVAN KUMAR GADALE, JM:

The appeal is filed by the assessee against the order of NFAC/CIT(A) passed u/sec 144 and u/sec 250 of the Act. The assessee has raised the grounds of appeal challenging the order of the CIT(A) sustaining the addition u/sec69A of the Act made by the Assessing Officer.

2. The Brief facts of the case are that, the assessee is engaged in the retail trading of fruits, The Assessing Officer (AO) based on the information from ITBA data, found that the assessee has made cash deposits in the bank

account during the demonetization period and the A.O has issued notice u/sec143(2) and u/sec 142(1) of the Act along with questionnaire and the assessee has submitted the partial details in the proceedings. Whereas the A.O found that the assessee has made cash deposits aggregating to Rs.28,01,500/- in the bank accounts in the F.Y.2016-17 and explanations were called to substantiate the deposits and there was no compliance and Since, no explanations/details were filed, the AO considering the information available on record has invoked the provisions of Sec. 144 of the Act and made addition under section 69A of the Act of Rs.28,01,500/- and assessed the total income of Rs.36,97,747/- and passed the order u/sec 144 of the Act dated 9.10.2019.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and since there was no proper compliance by the assessee to notices. Therefore the CIT(A) considering the information on record has rejected the additional evidences and has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the AR submitted that the CIT(A) has erred in confirming the action of the Assessing officer overlooking the information of the assessment proceedings.

Further the assessee has a good case on merits and shall substantiate with the material evidences and prayed for an opportunity to explain before the lower authorities. Per Contra, the Ld.DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no proper compliance in spite of providing adequate opportunity of hearing and the notices were issued. Therefore, the CIT(A) observed that in the assessment proceedings also, the assessee has not participated in spite of providing sufficient opportunities, hence the CIT(A) is of the opinion that the assessee is not interested in prosecuting the appeal and has rejected the additional evidences and dismissed the appeal confirming the action of the assessing officer. The CIT(A) has issued the notices of hearing but there was no proper response and thus the Ld.CIT(A) came to a conclusion that the assessee is not interested and decided the appeal based on the information available on record. Whereas the assessee has raised grounds of appeal challenging the addition by the A.O and there could be various reasons for not explaining the sufficient reasons in filing the new evidences before the CIT(A) and which cannot be overruled. Therefore, considering the facts and principles of natural justice, we shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information.

Accordingly, we set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh on the disputed issue and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information. And we allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 05.03.2025.

Sd/-
(GD PADMAHSHALI)
ACCOUNTANT MEMBER
Panaji Dated: 05/03/2025

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT,
6. Guard file.

//True Copy//

BY ORDER,
(Asstt. Registrar)ITAT,
Panaji

		Date	<u>Initial</u>	
1.	Draft dictated on			PS
2.	Draft placed before author			PS
3.	Draft proposed & placed before the second member			PS
4.	Draft discussed/approved by Second Member.			PS
5.	Approved Draft comes to the Sr.PS/PS			PS
6.	Kept for pronouncement on			
7.	File sent to the Bench Clerk			
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			
11.	Dictation Pad is enclosed			