

IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'SMC' : NEW DELHI)

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

ITA No. 3296/Del/2024
Asstt. Year : 2017-18

SANDEEP DUGGAL,
A-165, DAYANAND COLONY,
LAJPAT NAGAR-IV,
NEW DELHI – 24
(PAN: AAFPD8757N)
(Appellant)

VS. ASSESSMENT UNIT,
CIVIC CENTRE,
INCOME TAX DEPARTMENT

(Respondent)

Appellant by : Sh. Dilbagh Kochar, CA
Respondent by : Sh. Sanjay Kumar, Sr. DR.

Date of Hearing	20.02.2025
Date of Pronouncement	20.02.2025

ORDER

PER SHAMIM YAHYA, AM :

This appeal has been filed by the Assessee against the order dated 29.09.2023 passed by the Ld. CIT(A)/NFAC, Delhi on the following grounds:-

1. THAT the learned officer has grossly erred both in law and facts by completing the assessment arbitrarily based on hypothecation and unverified transactions and information contrary to the letter and spirit of section 147 & 143(3) of the income tax act.
2. THAT the Show Cause Notice issued u/s 147 of the Income Tax Act,1961 was served at the wrong e-mail address i.e., rahulnavani@gmail.com instead of Appellant registered address dilbaghrai.n.company@gmail.com .
3. THAT the above said Show Cause Notice is bad at law as it only gave the Appellant 3 days' time to submit a response as opposed to 14 days' time according to the provisions of the Income Tax Act, 1961.
4. THAT the Notice for Penalty under section 274 read with section 271AAC(1) of the Income-tax Act,1961 was issued to the Appellant on 11/04/2023 without prior serving of Assessment Order and Demand Notice.

5. THAT the Appellant humbly submitted a plea letter to the Ld. Assessing Officer dated 11/04/2023 wherein, the Appellant expressed his grievance about wrong service of SCN as well as No Assessment Order issued.
6. THAT no sooner did the Appellant submitted the plea letter than the Assessment Order was issued by the Ld. Assessing Officer.
7. THAT Your Honour, the Appellant previously was not able to submit his reply on time as he was prevented by unforeseen circumstances as the mother of the legal counsel of the Appellant CA Dilbagh Rai Kochhar suffered two heart attacks due to which the legal counsel was busy taking after his ailing mother.
8. THAT the learned officer may not apply section 69A merely on the statements submitted by the third party, the alleged party without verifying and cross examining them and with material evidences.
9. THAT the learned officer may not apply section 69A without verifying and cross examining the material evidences provided by the Appellant.
10. THAT the Additions in Income u/s 69A are quite Unjust and Unseasonable and are not based on enquiries and elaborate discussion and agreement.
11. THAT the learned officer was unjustified and acted not in accordance with the principles of natural justice and law of equity in concluding the assessment.
12. THAT the Learned Officer fails to establish escapement of income. Therefore Proceedings initiated u/s 271AAC(1) are hypothetical and without Backing of Evidence and Sound Observations.
13. THAT the Appellant is an Honest Tax Payer and acted Bonafide and hence humbly request Admission Allowance and Acceptance of Appeal on Compassionate and Humanitarian Ground.
14. THAT the Appellant has submitted the material evidences and relevant documents along with this Appeal which are substantial in support of the Contentions in this Appeal therefore the Appeal may be heard and allowed.
15. THAT the Impugned order, if unheard, would cause Undue Hardship to the Appellant.
16. THAT the Appellant may be allowed to state any other Additional Ground it may deem fit during the Appeal proceedings, along with the Additional evidences in support of the said Additional ground.
17. That the Appellant crave to leave to add, to amend, alter or modify or delete any of the ground of appeal as it may deem fit during the Appeal proceedings.

18. That the Assessment is harsh in nature, highly excessive and detrimental to the Appellant firm.
19. That the Appellant's Appeal to Hon'ble Commissioner of Income Tax against the Assessment Order u/s 147 read with Section-144 issued by the Ld. Assessing Officer was dismissed on the grounds that there was a delay of 17 days in filing the Appeal.
20. That the Hon'ble Commissioner of Income Tax did not oblige the Condonation of Delay submitted by the Appellant.
21. That the Hon'ble Commissioner of Income Tax did not take into account the Statement of Facts, Grounds of Appeal and the Evidences produced by the Appellant.

2. The brief facts of the case are that the assessee's case was selected for scrutiny for cash deposits during the demonetization period. The assessee is engaged in the service sector of Real Estates Agency. The notice u/s. 148 dated 17.7.2022 was issued and duly served upon the assessee. However, the assessee has not filed his return of income in response to notice u/s. 148. The case was assigned to ReFAC under the FAS, 2019. The notice u/s. 142(1) was issued on 05.01.2023, in compliance the assessee submitted his response and sought adjournment only. AO further noted in the assessment order, the details were sought, but assessee failed to respond. A sum of Rs. 10,34,000/- deposited in cash in the bank account was added to the total income of the assessee by the AO. Against the above, assessee preferred an appeal before the Ld. CIT(A). Ld. CIT(A) noted that there is a delay of 17 days in filing the appeal and the reasonable cause for delay was attributed to the ailment of the mother of the assessee's counsel. However, Ld. CIT(A) was not satisfied, he dismissed the appeal in limine.

3. Against the aforesaid order, assessee is in appeal before us.

4. I have heard both the parties and perused the records. Upon careful consideration, I find that reasonable cause has been attributed for 17 days in filing the appeal, which has been ignored by the ld. CIT(A), although the necessary documents were attached in this regard. In my considered opinion,

interest of justice will be served, if the delay of 17 days before the CIT(A) is condoned. Hence, I condone the delay of 17 days in filing the appeal before the Ld. CIT(A) and remanded back the matter to the file of the Ld. CIT(A). Ld. CIT(A) shall consider the issues in dispute afresh, and pass a speaking order, after giving adequate opportunity of being heard to the assessee.

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

Order pronounced in the Open Court on 20.02.2025.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

SRBhatnagar

Copy forwarded to: -

1. Appellant
2. Respondent
3. DIT
4. CIT (A)
5. DR, ITAT

TRUE COPY

By Order,

Assistant Registrar, ITAT,
Delhi Bench