

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

(HYBRID COURT)

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
AND SH. KRINWANT SAHAY, ACCOUNTANT MEMBER**

I.T.A. No. 18/Asr/2024
Assessment Year: 2009-10

ZaffarMehraj Shah
Haji Bagh, Buchpora,
Srinagar, Jammu & Kashmir
190020
[PAN: BDYPS3894L]

Vs.

Income Tax Officer
Ward 3(3), Srinagar
Income Tax Office,
Post Office Lane,
Opp. Kitab Manzil,
Raj Bagh, Srinagar
J. & K.-190001

(Appellant)

(Respondent)

Appellant by : Sh.P. N. Arora, Adv.
Respondent by : Sh. Manpreet Singh Duggal, Sr. D. R.
Date of Hearing : 20.03.2025
Date of Pronouncement : 11.04.2025

ORDER

Per Krinwant Sahay, A.M.:

Appeal in this case has been filed against the order dated 21.08.2023 passed by the Id. CIT(A) NFAC, Delhi for Assessment Year: 2009-10.

2. Grounds of appeal taken by the assessee are as under:

- “1. That the order of the Assessing Officer as well as the order of Learned CIT(A) are both against the facts of the case and are untenable under the law.
2. That the worthy CIT(A) has not appreciated the facts of the case and merely relied on order of the AO and without applying his mind and without any rhyme & reason, the Ld. CIT(A) has confirmed the addition made by the AO. As such the order of Ld. CIT(A) is liable to be cancelled and the addition made may be deleted.
3. That the AO has grossly erred in making the addition of Rs.6,28,514/- on account of cash deposits in credit card account.
4. That it was explained before the authorities below that the assessee was having two credit cards of different banks i.e. HDFC Bank at Rs.3,19,388/- and J&K Bank at Rs.3,94,695/-. It was also explained that the payment made to HDFC Bank credit card by the assessee from his bank account. The necessary details were duly submitted before the authorities below. It was further explained that J&K Bank credit card was given to my brother Khalid Mehraj Shah who was using the same for his business of Travel Agency for purchasing tickets. It was also proved that Khalid Mehraj Shah has used the same and TDS has been deducted by Ebix Travels (P) Ltd. with whom my brother was dealing for the purchase of tickets. As such there was no reason for the CIT(A) in confirming the addition made by the AO and as such the addition made may be deleted.
5. That the CIT(A) should have allowed the deduction as claimed under Chapter VIA at Rs.1,00,000/-.

6. *That any other ground of appeal which may be urged at the time of hearing of the appeal.”*

3. The registry has marked this appeal as time-barred by 98 days, the ld. counsel of the assessee has filed an affidavit for condonation of delay which is reproduced as under:

“In this case, the order u/s 250 passed by the Ld. CIT(A), NFAC, Delhi dated 21/08/2023 was issued and accordingly the appeal was to be filed on 20/10/2023 whereas the appeal is being filed today and the same is late by 75 days.

As a matter of fact my earlier counsel Shri Raj Kumar Gupta who was dealing my case did not inform about the order of the worthy CIT(A) as he has opened the portal very late and accordingly came to know in the last week of November 2023 that the order of the Ld. CIT(A) has passed and accordingly he informed the assessee. The assessee after knowing the same in the last week of November 2023 engaged the counsel Shri P.N. Arora, Advocate who advised me to file the appeal. The certificate of earlier counsel Shri Raj Kumar Gupta is also enclosed herewith in this regard.

So, the assessee cannot be penalized for the mistake of the counsel. As such there was reasonable and sufficient cause which prevented the assessee in filing the belated appeal and it is prayed that the delay in filing the appeal may kindly be condoned.”

4. We have considered the issues brought on record in the affidavit for condonation of delay and we are inclined to condone the delay.

5. The ld. DR did not have any objection for the condonation of delay.

6. Although, the assessee has taken these grounds of appeal, however, the main grounds of appeal pertain to addition of Rs.6,28,514/- on account of cash deposits in credit card account. The ld. CIT(A) in his appellate order has given his findings as under:

“As the appellant has been given ample opportunities to substantiate his claim with documentary evidence but he could not furnish supporting documents in support of cash credit/deposit in his credit card account. In view of the above discussion and on merit these grounds of appeal are, accordingly, dismissed and the addition made by the AO on this account is, hereby, confirmed.”

7. During the proceedings before us, the ld. counsel of the assessee has filed a written submission along with a paper book and he argued that the same was there before the ld. CIT(A) also but unfortunately, the ld. CIT(A) could not consider the submission made by the assessee and therefore, he has dismissed the appeal of the assessee for lack of evidence and submission. The ld. counsel of the assessee accordingly made a request to remand this case back to the file of the ld. CIT(A) for fresh adjudication after considering all the submissions made before us.

8. The ld. DR relied on the order of the ld. CIT(A).
9. On the other hand, the ld. DR argued that the findings given by the ld. CIT(A) in his appellate order are self-explanatory whatever details, the assessee has filed they have been considered and accordingly, the assessee has been allowed some relief also. Therefore, he argued that the appeal of the assessee should be dismissed. But the ld. counsel in his rejoinder requested that the main addition of cash deposits in credit card account has not been considered properly by the ld. CIT(A). Therefore, the matter should be remanded back to the file of the ld. CIT(A).
10. We have considered the findings given by the A.O. and the ld. CIT(A) in assessment order as well as the appellate order. We have heard the submissions of the ld. counsel of the assessee as well as with all ld. departmental representative. We find that the ld. CIT(A) in his order has clearly mentioned that the assessee could not file any documentary evidences in support of his claim, therefore, he has dismissed the appeal of the assessee on that issue.
11. We are of this considered view that keeping in mind, the element of natural justice, the assessee should be provided opportunities to

explain his case with a detailed reply/written submission before the ld. CIT(A).

12. Accordingly, this is remanded back to the file of the ld. CIT(A) for fresh adjudication.

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

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 11.04.2025.

Sd/-
(Udayan Dasgupta)
Judicial Member

Sd/-
(Krinwant Sahay)
Accountant Member

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy
By Order