

**IN THE INCOME-TAX APPELLATE TRIBUNAL “K(SMC)”
BENCH, MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA 3308/MUM/2024
(A.Y. 2017-18)**

Ankur Pankaj Desai , Plot No. 18, Ground Floor, Bhagwan Bhuvan, Tejpal Road, Vile Parle East, Mumbai – 400 057, Maharashtra	v/s. बनाम	Income Tax Officer, Ward – 34(1)(6), 726, 7 th Floor, Kautilya Bhavan, C-41 – C43, G-Block, Bandra Kurla Complex, Bandra, Mumbai – 400051, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: APVPD4164L		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Mehul Talera,AR
Respondent by :	Shri Kiran Unavekar (Sr. DR)

Date of Hearing	23.04.2025
Date of Pronouncement	29.04.2025

आदेश / O R D E R

PER PRABHASH SHANKAR [A.M.] :-

The present appeal arising from the appellate order dated 26.04.2024 is filed by the assessee against the order passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] pertaining to assessment order u/s. 144 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] dated 22.12.2019 as passed by the Income Tax Officer, Ward-34(1)(6), Mumbai for the Assessment Year [A.Y.] 2017-18.



2. The grounds of appeal are as under:-

- 1.1 *The order passed u/s 250 dated 26-02-2024 for A.Y. 2019-20 by CIT(A) NFAC, Delhi upholding the addition of Rs.8,80,400/- made by AO towards unexplained cash credit u/s 69A of the Act is wholly illegal, unlawful and against the Act.*
- 1.2 *The Ld. CIT(A) has grievously erred in law and/or on facts in treating cash deposits as unexplained cash credits without providing an opportunity of hearing so that there is gross violation of principles of natural justice and impugned order deserves to be quashed. The Ld CIT(A) ought to have appreciated the submissions, explanations and evidences in right perspective.*
- 2.1 *The Ld. CIT(A) has grievously erred in law and/or on facts in upholding the findings of AO towards unexplained cash credit u/s 69A of the Act ignoring the substance of submissions and evidences produced during the course of proceedings.*
- 2.2 *That Ld. CIT(A) has grievously erred in law and/or on facts in upholding the findings of AO in as much as that there is lack of inquiry on part of AO and findings of AO is misplaced on independent satisfaction by AO.*
- 2.3 *The Ld. CIT(A) ought not to have upheld the additions of Rs.8,80,400 towards unexplained cash credit u/s 69A of the Act.*
- 2.4 *Without prejudice and in alternative, the Ld. CIT(A) erred in not restricting the additions to the extent of peak credit.*

3. Brief facts of the case are that the assessee is a salaried person having filed ROI of Rs 5,27,720/-. The only ground pertains to the addition made in respect of credit card bills paid in cash amounting to Rs 8,80,400/- u/s 69A of the Act as the assessee did not make compliance in the assessment proceedings leading to the AO resorting to ex parte assessment. In the subsequent appeal, the ld.CIT(A) affirmed the order of the AO although he called for remand report from the AO in respect of the explanation furnished by the assessee before him.

4. Before us the ld.Authorized Representative argued that neither the AO nor the ld.CIT(A) considered the explanation offered by the assessee



during proceedings before them. The explanation regarding the sources of such payment of credit card bills from contributions from friends was brushed aside.

5. Per contra the ld. Departmental Representative relied on the orders of the authorities below stating that the assessee could not establish the payment.

6. We have carefully considered the relevant facts of the case. It is evident from the records that the AO resorted to ex parte assessment on account of non-compliance by the assessee during assessment proceedings. Although the ld.CIT(A) did call for a remand report on the additional evidences furnished by the assessee before him, it appears to us that the replies of the assessee were not examined and adjudicated properly. The ld. CIT(A) ought to have appreciated the submissions, explanations and evidences furnished by the assessee in right perspective. In such a situation and following the principles of natural justice, in the course of hearing of the appeal, we proposed to remand the entire issue back to the ld.AO for proper examination of facts of the case vis-a-vis the replies submitted by the assessee. Both the ld.AR and the ld.DR did not oppose this proposal. We therefore, remand the issue back to the file of the ld.AO with a direction to consider the entire issue afresh after allowing adequate opportunity of hearing to the assessee in this regard. Needless to state the assessee would make proper compliance before him.



7. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court on **29/04/2025**.

Sd/-

NARENDER KUMAR CHOUDHRY

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 29.04.2025

Lubhna Shaikh / Steno

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

