

आयकर अपीलीय अधिकरण  
कटक पीठ, कोलकाता में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
CUTTACK BENCH AT KOLKATA**

[वर्चुअल कोर्ट]  
[Virtual Court]

श्री संजय शर्मा, न्यायिक सदस्य  
एवं  
श्री रकेश मिश्रा, लेखा सदस्य  
के समक्ष  
Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER  
&  
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 180/CTK/2025  
Assessment Year: 2017-18**

Nilima Nayak	Vs.	Income Tax Officer, Ward- Kendrapada
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN: BBIPN3686F</b>		

**Appearances:**

**Assessee represented by** : None (Adjournment appln. filed).

**Department represented by** : S.C. Mohanty, Sr. DR.

Date of concluding the hearing : May 14<sup>th</sup>, 2025

Date of pronouncing the order : May 26<sup>th</sup>, 2025

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)- NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2017-18 dated 20.01.2024,



which has been passed against the assessment order u/s 143(3) of the Act, dated 20.12.2019.

1.2 The registry has informed that the appeal is delayed by 348 days. It is observed that along with the memo of appeal, the assessee has also filed an application and an affidavit seeking condonation of delay and has requested that the delay may be condoned. It is stated that the assessee has preferred an appeal before the Tribunal with a delay of more than 12 months. It is further mentioned that being a lady member staying in rural area, she is not versed with the income-tax e-filing procedures and hence was completely dependent on the tax consultant for making necessary compliance. The delay in filing the appeal is stated to be due to the negligence of the tax consultant and an affidavit to this effect has been filed before the Bench. It is requested that the delay in filing the appeal may be condoned and the appeal may be admitted for adjudication. An affidavit in this regard has also been enclosed. Considering the application seeking condonation of delay and the reasons stated therein, we are satisfied that the assessee had a reasonable and sufficient cause and was prevented from filing the instant appeal within the statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication on merit.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

*“1. For that order u/s 250 of the I.T Act Dated- 20.01.2024 as passed by the Ld. CIT (A) NFAC is illegal and arbitrary on the facts and in the circumstances of the case.*

*2. For that Ld. CIT (A) is not justified to confirm the addition of cash deposits of Rs.1,60,000/- in the bank accounts of the assessee during demonetization period on the facts and in the circumstances of the case.*



*3. For that Ld. CIT (A) is not justified to confirm the addition of cash deposits of Rs.8,00,000/- in the bank account during non-demonetization period ignoring the sales turnover of the assessee on the facts and in the circumstances of the case.”*

3. Brief facts of the case are that the assessee is an individual, derives income from the business of sanitary hardware under the name & style of M/s. Mahavir Sanitary Store, Balipatna, Pattamundai. The return of income for the impugned assessment year was filed on 18.11.2017 showing total income of Rs.3,83,930/-. Subsequently, the case was selected for scrutiny and statutory notices were issued. Thereafter, additions of Rs.8,00,000/- and Rs.1,60,000/- (amounting to total addition of Rs.9,60,000/-) were made u/s. 69A of the Act and the total income was determined at Rs.13,18,930/- as the returned income has been taken as Rs.3,58,930/-. Aggrieved with the assessment order, the preferred and appeal before the Id CIT(A), who issued notices for hearing but there was no response to the notices nor any submissions were made, hence the appeal was dismissed. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

4. Ground No.1 is general in nature and requires no separate adjudication.

5. Ground Nos. 2 and 3 are against the additions of Rs.1,60,000/- and Rs.8,00,000/- respectively. The Ld CIT(A), NFAC has noted that all the notices issued in the course of the appeal were delivered to the assessee. Thereafter, relying on the decision of Hon'ble Supreme Court in the case of Dev Dutt vs Union of India and Others reported in (2008) 8 SCC 725 (SC) and other judicial pronouncements in the cases of CIT v B.N. Bhattacharya 118 ITR 461 (SC) and The Ld. DR. P. Nalla Thampy



v Shankar (1984)(Supp) SCC 63 and New India Assurance v Srinivasan (2000) 3 SCC 242 (SC) and since despite having afforded various opportunities in para 4 of his order, the ld CIT(A) noted that the assessee failed to submit any explanation with regard to cash deposit during demonetisation period, therefore, both the additions made by the Ld. AO amounting to Rs.9,60,000/- were confirmed and the appeal was dismissed.

6. None appeared on behalf of the assessee but adjournment was sought vide application filed and the appeal was heard with the assistance of the Ld. DR. The Bench was of the view that proper representations were not made either before the Assessing Officer or even before the ld CIT(A) to substantiate the claim that the cash deposited in bank during demonetization period was out of normal business income. The claim of the assessee is that the cash deposited in the bank is out of sales turnover of the assessee. It is noted that the assessee is residing at Balipatana, Pattamundia, Kendrapara, which is a remote village of Odisha and this is the reason for the delay in filing the appeal. Therefore, in the interest of justice, it was considered imperative that since the order of the ld CIT(A) is *ex parte*, another opportunity may be provided to the assessee to present her case before the ld CIT(A). Therefore, the order of ld CIT(A) is set aside to be done de novo after affording a reasonable opportunity of being heard to the assessee and after calling for a remand report from the Ld. AO in accordance with provisions of Rule 46A of the Act, if required. Ground Nos.2 & 3 are allowed for statistical purposes.

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



**Order pronounced in the open Court on 26<sup>th</sup> May, 2025.**

*Sd/-*

**[Sonjoy Sarma]**  
Judicial Member

*Sd/-*

**[Rakesh Mishra]**  
Accountant Member

Dated: 26.05.2025

*Bidhan (P.S.)*



*Copy of the order forwarded to:*

1. **Nilima Nayak, Balipatna, Pattamundai, Kendrapara, Odisha, 754215.**
2. **Income Tax Officer, Ward-Kendrapada.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Cuttack Bench, Cuttack.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata