

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

(HYBRID COURT)

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

I.T.A. No. 668/Asr/2024
Assessment Year: 2017-18

Ajaz Ahmad Kuchai,
Iqbal Colony KMT Srinagar
190001, Jammu & Kashmir

Vs.

Income Tax Officer,
Ward, Udhampur

[PAN: BFSPK 0201B]

(Appellant)

(Respondent)

Appellant by : Ms. Sunfat Ashraf Wani, Adv.
Respondent by : Sh. Rajiv Wadhwa, Sr. D. R.
Date of Hearing : 21.04.2025
Date of Pronouncement : 29.05.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of Id. CIT(A) National Faceless Appeal Centre (NFAC), Delhi dated 04.10.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the Income Tax Officer, Ward 1, Srinagar dated 07.12.2019 passed u/s 144 of the I.T. Act, 1961.

2. **Condoantion of delay:** It is pointed out by the registry that this appeal is filed belatedly filed by 3 days. In course of hearing, the Id. AR of the assessee explained the delay to have arisen because of postal delay, the appeal being filed vide registered post from Srinagar which resulted in delay of three days.

3. The Id. DR has no objection. As such, considering the submissions of the assessee's AR we condone the delay and admit the appeal to be heard on merits.

4. The grounds of appeal taken by the assessee in Form No. 36 are as under:

- “1. The Ld C.IT (A) passed ex arte order without giving reasonable opportunity of being heard to the assessee.*
- 2. The lid C.LT (A) erred in law as well as in facts and dismissed the appeal. The total income assessed in assessment order is Rs 3969155/- but in demand order & computation sheet Ld AO has taken Gross Income of Rs 1,58,76,620 that is almost four times of assessed income.*
- 3. The appellant craves to amend alter or add any additional grounds of appeal before the same is heard and disposed off.”*

5. Brief facts of the case are that the assessee has deposited cash in J & K Bank A/c Nos. xxxxxx10000 and in xxxxxx00112 totaling to Rs.43,27,449/- (out of which Rs.39.38 lacs has been deposited during the demonetization period.) In absence of any return on record, proceedings has been initiated by issue of notice u/s 142(1) of the Act calling for the return. Subsequently, various notices has been issued and it is

seen from the record that the 5 (five) separate opportunities were allowed on different dates and the final show cause notice was also issued on 18.10.2019 but unfortunately, there has not been any representation or response from the assessee during the entire course of assessment proceedings. Subsequently, the assessment has been completed as per direction of the Addl. (CIT) u/s 144A of the Act by determining the total income at Rs.39,69,155/- (*including the addition of Rs.39.38 lacs u/s 69A of the Act being the unexplained deposit of SBN during demonetization period.*)

6. The matter was carried in appeal and the Id. CIT(A) dismissed the appeal, on the grounds that there has not been any compliance to notices issued on 4 (four) separate occasions, through ITBA portal.

7. Now, the assessee is in appeal before the Tribunal on the grounds contained in the memorandum of appeal. The Id. AR of the assessee referring to page no. 3 of the Id. CIT(A) order (*para 4*) submitted that the notices from the office of the Id. first appellate authority has been issued in the ITBA portal and in the e-mail id provided in the portal itself, but no notices has been issued in the e-mail id stated in Form No. 35, and there has not been any service of notice by post. He further stated that the assessee is engaged in business and all transactions in the bank account of the assessee are related to business transactions and the deposit of cash in the bank

account of the assessee during the demonetization period are out of sale proceeds of regular business transactions plus recovery from outstanding debtors. However, in absence of any notice being issued in the e-mail id, no representation could not be made by the assessee before the ld. first appellate authority and he prays that since notices has not been issued as per provisions of section 282 of the Act (*read with rule 127 of IT Rules, 1962*), the appeal has been disposed of without any proper opportunity of hearing to the assessee. He prays for fresh opportunity of hearing before the ld. first appellate authority.

8. The ld. DR relied on the order of the ld. CIT(A) but has no objection if the matter is remanded back to the ld. CIT(A) for fresh adjudication.

9. We have heard the rival submissions and considered the material on record and we find that the ld. CIT(A) has not adjudicated on the grounds contained in Form No. 35 on merits of the case, in absence of any representation or an documentary evidences being filed before him. It is also seen that the notices has been issued by the ld. first appellate authority in the ITBA portal and there is no evidence of issue of notice in the e-mail id provided in Form No. 35.

10. As such, considering the entire factual aspect of the matter, we remand the matter back to the files of the ld. CIT(A) for fresh adjudication on merits of the case on the grounds contained in Form No. 35 and we direct the assessee to file all

necessary submissions, explanations and documentary evidences, to establish the source of cash deposit in the bank account during the demonetization period to the satisfaction of the Id. CIT(A). The assessee will be allowed reasonable opportunity of being heard.

11. We have not expressed any opinion on merits.
12. In the result, the appeal filed by 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 29.05.2025

Sd/-
(Manoj Kumar Aggarwal)
Accountant Member

Sd/-
(Udayan Dasgupta)
Judicial 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