

**IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH (Virtual) JODHPUR**

**BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT AND
DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER**

**ITA No. 88/Jodh/2025
Assessment Year 2017-18**

Vijay Puri, Shri Gopal Puri Jat Colony, Nagaur – 341001 PAN No. AEIPV9241C		ITO, Ward-1, Nagaur.
Assessee by	Shri Amit Kothari, C.A.	
Revenue by	Shri Karni Dan, Addl. CIT-DR.	
Date of Hearing	29.04.2025.	
Date of Pronouncement	27 .05.2025.	

ORDER

PER DR. MITHA LAL MEENA, A.M.:

This Appeal by the assessee is directed against the order of National Faceless Appeal Central, Delhi (hereinafter referred to as "NFAC/CIT(A)") dated 08.09.2023 in respect of assessment year 2017-18 where the appellant has challenged the decision of the Id. CIT(A) in confirming assessment order passed exparte qua the assessee u/s 144B of the Act without appreciating merits and considering returned income of the Assessee filed u/s 44AD of the Act.

2. At the outset, the Ld. Counsel for the assessee submitted that there was a delay in filing the appeal, due to bonafide reasons which were duly supported with an affidavit of the assessee authenticating the content of the reasons for



the delay in filing appeal before the Tribunal. The Ld. AR further submitted that the Ld. CIT Appeal/NFAC has dismissed the appeal without going into merits of the case while confirming the finding of the AO in an ex parte assessment order. He pleaded that the delay in filing appeal may be condoned, and appeal may be admitted on merits. The Ld. DR could not controvert the content of the affidavit and accordingly had no objection to the request of the Assessee. Considering bonafide reasons for the delay, the delay in filing the appeal is condoned and appeal is admitted on merits.

4. Having considered the submission of both the sides and perusal of record, we find that admittedly, the assessee has filed return u/s section 44AD of the Act as he did not maintain the books of the account. The Ld. CIT (A) has summarily rejected the appeal for non-prosecution in confirming the assessment order passed ex parte u/s 144B of the Act.

5. From the record, it is evident that the assessee has made cash deposit in its bank account which has been shown Rs. 8,12,160/- as income in its return of income filed u/s 44AD of the Act for the assessment Year under consideration. Since the appellant has not maintained the books of account, and hence he has been legally correct in filing return of Income u/s 44AD of the Act which has not been controverted by either the AO or the CIT (A) or the Ld. DR before us to



establish that the source of said disputed bank deposit was ever unexplained by the assessee. Meaning thereby that in the present case, department failed to establish that how the bank deposit would construed income of the assessee.

6. Thus, the disputed cash deposit in the bank account of the assessee of Rs. 8,12,160/- stand explained and accordingly, the addition double of Rs. 8,39,628/- u/s 69A and Rs. 8,12,160/- treating Returned Income as business income is hereby deleted.

7. In the result, appeal of the assessee is allowed.

Order pronounced on 27/05/2025 in the open Court.

Sd

(RAJPAL YADAV)
VICE PRESIDENT

Sd

(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

Dated : 27/05/2025

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

By Oder
Assistant Registrar,
Income Tax Appellate Tribunal,
Jodhpur Bench,
Jodhpur