

आयकर अपीलीय अधिकरण
कोलकाता 'एसएमसी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH, KOLKATA**

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.: 1628/KOL/2024
Assessment Year: 2017-18**

Taffazul Mollah & Sons	Vs.	I.T.O., Ward-50(2), Kolkata
(Appellant)		(Respondent)
PAN: AACFT6299C		

Appearances:

Assessee represented by : None.

Department represented by : Kallol Mistry, JCIT, Sr. DR.

Date of concluding the hearing : 13-May-2025

Date of pronouncing the order : 16-June-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 07.06.2024, which has been passed against the assessment order u/s 143(3) of the Act, dated 07.12.2019.



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

“1. For that the Ld. CIT(A) erred in law and in fact to uphold and confirm addition of Rs.11,18,184 u/s 69A of the I. T. Act on account of deposit of cash in old currency notes in various banks during demonetization in spite of the fact that proper documents were submitted to substantiate the source of amount deposited.

2. For that the appellant craves leave to add and/ or to modify any grounds of appeal.”

3. Brief facts of the case are that the assessee had filed the return of income showing total income of Rs.2,42,240/- and the assessment under section 143(3) of the Act was made at the total income of Rs.13,60,424/- by making an addition of Rs.11,18,184/- on account of unexplained cash deposit during the demonetisation period u/s 69A of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who vide the impugned order and on ground of minimal compliance by the assessee confirmed the addition after doing his own calculation and dismissed the appeal.

4. None appeared on behalf of the assessee and the appeal was heard with the assistance of the Ld. DR.

5. It was submitted by the Ld. DR that on none of the dates of hearing, the assessee had complied before the Ld. CIT(A). However, it was pointed out by the Bench that the assessee had furnished submissions on 29/11/2023 and 07/05/2023 before the Ld. CIT(A) as is mentioned in the appeal order. The Ld. AO had noted that the assessee had deposited the sum of Rs.3522000/- in the two bank accounts in Bank of India and State Bank of India and in response to the notice issued, the assessee filed the reply along with supporting documents and the Ld. AO also requisitioned information from the 3rd



parties by issuing notice under section 133(6) of the Act. Since the cash balance of the assessee was found to be Rs.24,03,816/- while the money deposited in the demonetised currency notes was Rs.35,22,000/-, the Ld. AO had asked the assessee to show cause why the difference of the cash in the cash book and the amount deposited in demonetised currency, i.e. Rs.11,18,184/- should not be added to the income as unexplained money u/s 69A of the Act and be taxed under section 115BBE of the Act. The assessee did not file any reply. In the earlier submissions filed, the assessee had said that all the deposits were from the sale proceeds but since the legal tender of the currency notes of Rs.500 and Rs.1000 denomination was withdrawn by the Government of India from the midnight of 08/11/2016, any transaction made through exchange of the demonetised currency notes was considered as illegal and it was also found to be illogical by the Ld. AO that any person will accept the demonetised currency. Hence the reply was treated as an afterthought and the total income was assessed at Rs.13,60,424/-.

6. In the appeal filed before the Ld. CIT(A), the assessee submitted that in response to the notice issued on 13/08/2019 the assessee had filed an adjournment petition on 27th 9 2019 and in response to the notice issued under section 142(1) on 31/10/2019, the assessee had filed the reply on 30/11/2019 but in the meantime information was requisitioned from the 3rd parties by issuing notice under section 133(6) of the Act. Before the Ld. CIT(A), the assessee argued that he had deposited only Rs.23,60,000/- being Rs.12,60,000/- in the SBI and Rs.11,00,000/- in Bank of India as per the bank certified documents and the rest of the amount was deposited in valid notes as per the bank certified copies, which amount was collected from sale of kerosene oil



after 08/11/2016 as per the sales memo, says register which was already reflected in the books of account. The Ld. CIT(A) analysed the bank certificates filed by the assessee and noted that during the period from 09/11/2016 to 13/11/2016, out of the sum of Rs.39,62,000/- deposited, Rs.23,60,000/- was in SBNs and Rs. 16,02,000/- was in non-SBNs. The Ld. AO had however noted the same as Rs.35,22,000/-. Therefore, a sum of Rs.4,40,000/- deposited in non-SBNs on 11/11/2016 had been missed by the Ld. AO. Thus, out of the cash deposits of Rs.39,62,000/- from 9/11 2016 to 13/11/2016, deposits of Rs.24,03,816/- were treated as from closing cash in hand as on 08/11/2016 and for the balance amount of Rs.15,58,184/-, benefit of Rs.4,40,000/- was given assuming the same to be from cash sales made between 9/11 2016 to 12/11/2016. It was also noted that both during the assessment as well as the appeal proceeding, the assessee had failed to furnish any explanation or documents to substantiate the source of the deposits and had also failed to furnish cash book, sales and purchase register, audited financials or any other detail/document to substantiate the source of the deposits. The Ld. CIT(A) has relied upon several judicial pronouncements and dismissed the appeal on account of minimal compliance by the assessee and also confirmed the addition of Rs.11,80,184/- on account of unexplained investment u/s 69A of the Act. The appeal was accordingly dismissed.

7. We have considered the assessment order as well as the appeal order. The Ld. AO has not discussed as to what was the turnover of the assessee and what were the sale proceeds during the demonetisation period. The Ld. CIT(A) has also given the benefit of Rs.4,40,000/- for the balance amount of Rs.15,58,184/- assuming the same to be from cash sales made between 9/11/2016 to 12/11/2016. Since proper



compliance was not made and the assessee had failed to furnish the required cash book, sales and purchase register, the addition was sustained on assuming certain facts. We find that at both the stages of assessment order before the Ld. AO as well as before the Ld. CIT(A) in the appeal, proper representation was not made on behalf of the assessee. The appeal has also been decided on account of minimal compliance on behalf of the assessee by the Ld. AR. Therefore, we deem it appropriate in the interest of justice and fair play that another opportunity needs to be provided to the assessee to represent his case properly before the Ld. CIT(A). We, therefore, set aside the order of the Ld. CIT(A) and remit the appeal to him to for deciding afresh, who shall allow an opportunity of being heard to the assessee and also grant an opportunity of representing the case and be heard to the Ld. AO as per rule 46A of the Income Tax Rules, 1962, if required, and thereafter pass an order in accordance with law. For statistical purposes, Ground No. 1 of the appeal of the assessee is allowed.

8. Ground No. 2 is general in nature and does not require any separate adjudication.

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

Order pronounced in the open Court on 16th June, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 16.06.2025

Bidhan (P.S.)



Copy of the order forwarded to:

1. **Taffazul Mollah & Sons, Vill.-Golabari, P.O.-Golabari, Barasat,, North 24 Parganas, West Bengal, 743708.**
2. **I.T.O., Ward-50(2), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata