

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

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
AND SH. BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**I.T.A. No. 657/Asr/2024
Assessment Year: 2016-17**

Abdul Rasheed, Bona Nambal, Jammu and Kashmir. [PAN:-BSXPR4831G] (Appellant)	Vs.	ITO, Ward Udhampur. (Respondent)
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Appellant by	None
Respondent by	Sh. Charan Dass, Sr. DR

Date of Hearing	29.05.2025
Date of Pronouncement	07.07.2025

ORDER

Per: Udayan Dasgupta, J.M.:

This appeal is filed by assessee against order of Ld. CIT (A), NFAC, Delhi, passed u/s 250 dated 21.08.2024 which has emanated from the order of the AO, NFAC dated 27/01/2024, passed u/s 147 r.w.s. 144 of the Act 1961.

2. Condonation of delay:

It is pointed out by the registry that the appeal has been filed belatedly by 41 days. An application for condonation of delay has been filed alongwith an affidavit by the assessee who submitted that the appeal order has been received on 21.08.2024

the last date of filing the appeal before the Tribunal expired on 20th October 2024. In the instant case, the appeal has been filed on 30.11.2024 which was belated by 41 days. The assessee submitted that his mother was seriously ill during the month of August and September 2024 and after the long illness his mother expired on 30th October 2024, subsequent to which he had to comply with the necessary rituals, which has resulted in this delay of 41 (forty one days). He prays for condoning the delay and for admission of the appeal to be heard on merits. The Id. DR had no objection. Considering the facts stated in the affidavit we condone the delay of 41 days and we admit the appeal to be heard on merits.

3. The grounds of appeal in Form No. 36 are as under:

“1. On the law and Facts of the case, The Id. CH (A) was not justified in refusing to decide on ground no 1 raised in the appeal on the plea that the assesses has mentioned on which action of AO he is aggrieved. The said ground reads as "The assessee was not given sufficient opportunity of being heard as the notices were being served one after other and when the reply was ready window was dosed. Order was passed after three months of closing the window” Just in one month three notices were issued and case was decided.

2. The Id. CIT(A) has erred in upholding the addition made by JAO without evaluating the information /records.

3. The Ld. CIT (A) has erred in upholding the addition made by JAO without appreciating the nature of transactions in the

bank account and differential treatment given by JAO on. the cash deposits of the same assessee with in the same Bank account.

4. *The Ld. CIT (A) has erred in upholding the addition made by JAO without appreciating the written submission made on account of the source of deposits of cash in his bank account.*

5. *The Appellant may please be allowed to submit additional information/documents before the Hon'ble Bench as additional evidence as the appellant has not got an opportunity to present his case. His consultant has not perused the case although he was duly authorized for appearing before the CIT(A) with the result he was not able to file the Appeal before the Hon'ble Tribunal on time.*

6. *The appellant craves leave to add, amend, alter, vary and /or withdraw any or all the grounds of appeal during the hearing of the case.”*

4. The brief facts emerging from record are that the assessee has deposited cash amounting to Rs.59,70,817/- in his bank account in Jammu and Kashmir Bank during F.Y. 2015-16 (*relevant to the assessment year under appeal*). Proceedings u/s 147 were initiated after obtaining necessary approval from higher authorities on 24.03.2023. However, in absence of any return in response to notice u/s 148 and in absence of any satisfactory explanation from the assessee, in reply to various show cause notices issued and delivered through ITBA portal, the assessment was completed by the AO by determining the total income at Rs.59,70,817/- by considering the cash deposit as unexplained investment u/s 69 of the Act.

5. The matter was carried in appeal before the first appellate authority and apart from the statement of facts and the grounds of appeal contained in Form 35 no further documents or submission has been filed before the first appellate authority, even though, it was specifically mentioned that cash book, ledgers and registration certificates are enclosed in the list of documentary evidences.

5.1 It is also seen from the appellate order (para 4) that notices has been issued on three separate occasions from the office of the ld. first appellate authority through the ITBA portal and there has not been compliance on the part of the assessee on any such occasions. In absence of any response from the assessee the appeal has been dismissed without adjudication on merits.

6. Now the assessee is in appeal before the Tribunal on the ground contained in memorandum of appeal. There is no representation made by the assessee on the date of hearing nor any adjournment has been filed. However, on the basis of the grounds of appeal and the written submissions filed before us, it is seen that the main objection of the assessee is that proper opportunity of hearing has not been granted and the facts of the case has not been appreciated by the ld. first appellate authority and as such, he has requested for proper opportunity of hearing to explain his case with proper documentary evidences.

6.1 As such, considering the fact that the appeal has not been adjudicated on merits and there might have been a possibility that the notice of hearing from the

office of the ld. first appellate authority issued through ITBA portal might not have been tracked by the assessee, we deem it fit and proper to remand the matter back to the file of the ld. CIT(A) for fresh adjudication and for deciding the grounds of appeal contained in form no. 35 on merits of the case. The assessee is also directed to file all documentary evidences and submissions in support of his contention before the ld. first appellate authority and to fully cooperate in appeal proceedings for proper disposal of the case. The assessee to be allowed proper opportunity of hearing.

6.2 We have not expressed any opinion on merits. All legal issues are left open.

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

Order pronounced on 07.07.2025 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.

Sd/-

(BRAJESH KUMAR SINGH)
Accountant Member

Sd/-

(UDAYAN DASGUPTA)
Judicial Member

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By order

