

**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. 688/Asr/2024
Assessment Year: 2017-18

Bhatia Medicos
E-501, Hamilton Grande Tower,
Nakodar Road, Near Wadala
Chowk, Jalandhar

[PAN: AAafb 7452P]

(Appellant)

Vs.

Income Tax Officer,
Ward-3(1), Jalandhar

(Respondent)

Appellant by : Sh. Sudhir Sehgal & Sh. Anil Miglani, Adv.
Respondent by : Sh. Charan Dass, Sr. D. R.
Date of Hearing : 01.07.2025
Date of Pronouncement : 21.07.2025

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 02.01.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the ITO, Ward-3(1), Jalandhar dated 16.12.2019 passed u/s 144 of the I.T. Act, 1961.

2. **Condonation of delay:-** It is pointed out by the registry that the appeal was belatedly filed by 291 days, the application for condonation of delay has been filed by the assessee along with affidavit of one of the partners Mr. Kanwaljit Singh who submitted that the assessee firm is engaged in the business of retail trading of medicines and grocery and no order has been received from the office of the Id. first appellate authority. He submitted that as per Form No. 35, the e-mail id mentioned for the purpose of communication of appeal was anilmiglani@gmail.com but neither any notice nor any order of appeal has been issued in the said e-mail id. He further stated that on receipt of information from the department in respect of penalty proceedings, it was learnt that the appeal has already been disposed of by the Id. first appellate authority vide order dated 02.04.2024. Subsequently, he has appointed new counsel and has submitted this appeal on 18.12.2024 which is belated by 291 days (Two hundred ninety one days). He prays that the delay in filing this appeal may please be condoned because there is no willful default on his part.

3. The Id. DR has no objection. Considering the facts and reasons pointed out in the affidavit, we condone the delay and admit the appeal for hearing on merits.

4. Grounds of appeal taken by the assessee in Form No. 36 are as follows:

“1. *That the order of the Ld. CIT(A) is against law and facts of the case on the file.*

2. *That the Ld. CIT(A) gravely erred in sustaining the addition of Rs. 25,98,590/-being the amount deposited in bank account of the assessee.*
- 2.1 *That while sustaining the addition the Ld CIT(A) ignored that the bank deposits were out of sale proceeds of the medicine shop run by the assessee firm.*
3. *That the Ld. CIT(A) gravely erred in sustaining the addition by referring to provisions of section 69A of the Income Tax Act without appreciating that the provisions of said section are not applicable in the case of the applicant.*
4. *That the Ld. CIT(A) erred in sustaining the applying of provisions of section 115BBE of the Income Tax Act, 1961 in the facts and circumstances of the case of the appellant and determining the tax liability as per this return without appreciating that the provisions of section 69A are not applicable to the facts of the case.*
5. *That the appellant begs to add or amend any ground of appeal before the appeal is heard and disposed off.”*

5. Brief facts emerging from the record are that the assessee is a partnership concern, engaged in the business of retail trading of medicines and grocery and has deposited cash amounting to Rs.17.47 (seventeen lakhs forty seven thousand) lacs in *Punjab & Sindh Bank A/c No.xxxxx1591* during the demonetization period and in absence of any return on record, notices were issued u/s 142(1) calling for the return and assessment proceedings were completed exparte, in absence of any response from the assessee to various notices issued by the department, and the total income was assessed at Rs.25,90,000/- *(which included cash deposit during the*

demonetization period and also the cash deposit of Rs.8.32 lacs for the post demonetization period). In other words, the entire credits including cash and cheque for the entire financial year totaling of *Rs.25.98 lacs* has been assessed as total income.

6. The matter was carried in appeal before the first appellate authority and in absence of any representation to various notices issued by the Id. CIT(A) and in absence of any supporting documentary evidences, invoices and vouchers, the appeal has been dismissed by observing as follows:

"8.3 During the appellate proceedings also, even after granting sufficient adjournments on request, and several opportunities of hearing as mentioned in para 5, the appellant has failed to submit the documentary evidence in support of his claim. The appellant did not submit any written submissions along with documentary evidences to substantiate his claim. The appellant has shown a callous and non serious attitude towards the departmental proceedings and it appears obvious that the appellant has nothing substantial to say with regards to his claims. It is pertinent to mention that, an appeal means an effective appeal-- "expression "prefer an appeal" would mean effectively prosecuting an appeal purposefully interpreted, preferring an appeal means more than formally filing it but effectively pursuing it. If a party retreats before the contest begins, it is as good as not having entered the fray.

8.4 Hence, in the absence of supporting documentary evidences/vouchers etc and explanation by the appellant. I don't have any alternate option except to decide the case in view of the findings of the Ld. AO as emanating from the assessment order. Accordingly, the addition made with regard to cash deposits Rs.25,79,000/- (17,47,000/- Rs.8,32,000/-) and credit entries of Rs.19,590/- which in total comes to Rs.25,98,590/- treated as deemed

unexplained money u/s 69A by the Ld. AO is hereby confirmed on merit also and the grounds of appeal raised by the appellant is hereby dismissed.”

7. The Id. AR of the assessee submitted that the notices of hearing from the office of the Id. CIT(A) has been issued to an incorrect e-mail id goldy_handa06946@yahoo.com instead of e-mail id specifically mentioned in Form No. 35. In support of his contention he submitted screenshots from the income tax portal as a proof of service of notice in wrong e-mail id. He has also submitted an affidavit of one of the partner Mr. Kanwaljit Singh who stated that no notice of hearing has actually been received in his *e-mail id* and neither any notices of hearing has been received in the e-mail id contained in the income tax portal, and non receipt of notice prevented him from appearing before the Id. CIT(A).

8. The Id. AR further submitted copies of bank statements of the assessee firm as proof of carrying out his business of medicines to show that payments has been made through bank channels to various wholesalers and suppliers of medicines as apparent from the bank entries and he explained that the cash deposit in bank A/c is out of regular sale proceeds of medicine business, where acceptance of SBN was permitted, during demo period. He further submitted that in the instant case, no opportunity was allowed to the assessee to present his case before the Id. CIT(A) on account of non-

service of notice. As such, he prays for reasonable opportunity of being heard to present his case.

9. The Id. DR has no objection if the matter is remanded back to the Id. CIT(A) for fresh adjudication on merits.

10. We have heard the rival submissions and considered the materials on record and we find that no notice of hearing has been issued in the *e-mail id provide in Form no. 35* and the assessee was not allowed proper and reasonable opportunity of presenting his case.

11. As such, in the interest of justice, we remand the matter back the files of the Id. CIT(A) for considering the appeal afresh and for adjudication on grounds contained in Form No. 35. The assessee is also directed to file all necessary documentary evidences in support of his business and to produce necessary books of account including cash book for proper explanations of cash being deposited in bank during the demonetization period. The assessee shall be allowed reasonable opportunity of being heard.

12. We have not expressed any opinion on merits

13. 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 21.07.2025

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