

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

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND
SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
(Hybrid Hearing)**

**I.T.A. No. 663/Asr/2024
Assessment Year: 2017-18**

Hitesh Singla, 32579, Street No. 1, Paras Ram Nagar Bathinda Punjab. [PAN:-HASPS9396Q] (Appellant)	Vs.	ITO, Ward-1(1), Bathinda. (Respondent)
---	-----	---

Appellant by	Sh. P. N. Arora, Adv.
Respondent by	Sh. Charan Dass, Sr. DR

Date of Hearing	09.07.2025
Date of Pronouncement	28.07.2025

ORDER

Per: Udayan Dasgupta, J.M.:

This appeal is filed by assessee against order of Ld. CIT (A), NFAC, Delhi, passed u/s 250 of the Act 1961, dated 07.10.2024 which has emanated from the order of the AO, NFAC, dated 23/03/2022, passed u/s 147 r.w.s. 144 of the Act.

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

“1. That the Assessment Order dated 23/03/2022 passed by the Assessing Officer, NFAC, Delhi as well as the order of the Learned Commissioner of Income Tax (Appeals), NFAC, Delhi dated 07/10/2024 thereby confirming the order of the A.O. are

both against the facts of this case and are untenable under the law.

2. *That no reasonable and proper opportunity of being heard was allowed by the Assessing Officer before passing the assessment order. As such the assessment order passed is bad in the eyes of law and the same is liable to be cancelled and similarly the order passed by the worthy CIT(A) thereby confirming the order of the AO is also bad in the eyes of law and the same is liable to be cancelled.*

That the reopening u/s 147 r.w.s. 144 r.w.s. 144B is illegal and bad in the eyes of law and the reopening u/s 148 is liable to be cancelled as the issuance of notice is illegal, invalid and void abinitio. Since no notice was served on the assessee, as such the proceedings initiated are bad in the eyes of law and the assessment order is liable to be cancelled.

4. *That the CIT(A) did not appreciate that the assessee should not be deprived of his fundamental right of filing the appeal. The CIT(A) did not appreciate that there was reasonable and sufficient cause for filing the belated appeal and the delay should have been condoned. Alternatively, it is prayed that the CIT(A) may kindly be directed to condone the delay and hear the case on merits.”*

3. The brief facts emerging from record are that the assessee has deposited cash amounting to Rs.52.27 lakhs in his bank account during the demonetisation period from 19.11.2016 to 30.12.2016, (*as per information contained in page-1 of the assessment order*) and in absence of any explanation regarding the source of deposit the proceedings were initiated u/s 147 of the Act, after necessary approval from higher authorities, vide notice u/s 148 dated 30.03.2021. Even though, there has not been any compliance on the part of the assessee in course of reassessment proceedings, necessary information has been obtained by the AO (*copies of bank statements*) u/s 133(6), from Punjab & Sindh Bank, Bathinda (*A/c No. xxxxxx1040*), State Bank of India (*A/c No. xxxxxx61471*) and also from Axis Bank (*A/c No. xxxxx385322*) and it was observed by the AO that the total cash deposit in bank during demonetisation period was only Rs.2,02,500/- (*considering all three banks together*). It was further observed that as per bank information, the total credits in all the bank accounts taken together are Rs.53.14 lakhs, and the return filed by the assessee on 26.03.2018 disclosed a turnover of Rs.57.82 lakhs with a net profit percentage of 8% (eight percentage) reflecting a total income of Rs.4,62,624/-.

3.1 However, in absence of any compliance to various notices issued by the AO in course of assessment proceedings, the assessment was completed on a total income of Rs.6,65,120/- (*with an addition of Rs.2,02,500/- u/s 69A of the Act being the cash deposited in bank during demonetisation period*).

4. The matter was carried in appeal and the ld. CIT(A) dismissed the appeal by refusing to condone the delay of 67 days (sixty seven) in filing the appeal.

5. Now the assessee is in appeal before the tribunal on the ground contained in the memorandum of appeal.

5.1 It is seen from the record that the main objection of the assessee is that proper opportunity of hearing has not been granted by the ld. first appellate authority and the appeal has been dismissed without admission of appeal for adjudication refusing to condon the delay of only 67 days.

5.2 In course of hearing, the ld. AR of the assessee submitted that the assessment order was passed on 23.03.2022 and the due date for filing the appeal before the ld. CIT(A) was 21.04.2022, but the assessee was facing legal proceedings, and was in judicial custody and the court order was passed releasing the assessee on bail, on 30.05.2022 and thereafter he has filed the appeal before the first appellate authority on 28.06.2022 belated by 67 days.

5.3 The ld. AR of the assessee further submitted that the ld. CIT(A) has not considered the factual aspect of the matter and has also not allowed the assessee an opportunity to explain the delay in course of appellate proceedings and was not justified in simply rejecting the appeal without admitting the same, for adjudication.

5.4 He further submitted that the entire re-assessment proceedings has been initiated on mis-information of cash being deposited in bank and without considering the fact that the return of income has been duly filed by the assessee in normal course

and he prays for deletion of the addition made by the AO or for remanding the matter back to the file of the Id. CIT(A) for admission of the appeal for hearing of the case on merits.

6. The Id. DR relied on the order of the Id. CIT(A) and has submitted that since no written explanation has been filed before the Id. CIT(A) it was not possible for the first appellate authority to take a decision without condoning the delay in filing the appeal.

7. We have heard the rival submissions and considered the materials available on record and we find that the Id. AR of the assessee has explained the minor delay of 67 days (sixty seven) in filing the appeal before the first appellate authority in support of which he has relied on the order of the *Additional District and Sessions Judge, Bathinda, pronouncement on 21.03.2025*. Considering the factual aspect of the matter we are of the opinion that the delay in filing the appeal of 67 days before the first appellate authority has been explained and we have no hesitation in condoning the delay.

7.1 We also take note of the fact that there is a minor addition of Rs.2,02,500/- (Rs.2.02 lakh) which has flown from the fact that the SBN note has been deposited during demonetisation period as per information gather from banker's. We also find that the total turnover disclosed by the assessee at *Rs.57.82 lakhs* as per his regular return of income has been accepted by the AO and the total business profits disclosed @ 8% (eight) on such total turnover has also been accepted. We also find that the

re-assessment proceedings has been initiated on the basis of misinformation that cash deposit (SBN) was Rs.52.27 lakhs, when infact the same only Rs.2.02 lakhs (which is covered by the *Board Instruction No.3/2017* being less than (Rs.2.5 lakhs). We also find that this amount of Rs.2,02,500/- is also a part of the gross turnover of Rs.57.82 lakhs, which has been accepted by the AO as business turnover. As such, there is no reason to make a separate addition of Rs.2,02,500/- due to deposit of SBN notes (being covered by the Board Circular). The addition of Rs.2,02,500/- is deleted.

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

Order pronounced on 28.07.2025 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.

Sd/-

(MANOJ KUMAR AGGARWAL)
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