

**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. 92/Asr/2025
Assessment Year: 2017-18**

Tariq Ahmad Mir S/o, Sh. Mohd. Abdullah Mir, C/O M/s Tariq General Store Gund, Adalkoot, Banihaal, Distt. Ramban J & K. [PAN:-AOEPM0236L] (Appellant)	Vs.	ITO, Ward, Udhampur. (Respondent)
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Appellant by	Sh. P. N. Arora, Adv.
Respondent by	Sh. Charan Dass, Sr. DR

Date of Hearing	09.07.2025
Date of Pronouncement	18.08.2025

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 22.01.2025 which has emanated from the order of the AO, Udhampur, dated 18/11/2019, passed u/s 144 of the Act.

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

“1. That the assessment order passed by the Assessing Officer as well as the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi

thereby confirming the order of the Assessing Officer 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 said 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 Ld. CIT(A) has confirmed the order of the AO without application of mind and as such the order passed by the worthy CIT(A) is also bad in the eyes of law and the same is liable to be cancelled.*

3. *That the AO has decided the case ex-parte u/s 144 therein assessing the total income at Rs.18,18,513/-. The AO while deciding the case u/s 144 has not applied his mind and has made the addition for the sake of addition. Similarly, the worthy CIT(A) has also grossly erred in confirming the addition made by the AO. As such the order of the worthy CIT(A) is bad in the eyes of law and the same may kindly be cancelled and the addition made may be deleted.*

4. *That the AO while making the addition has divided the addition into two parts i.e. addition of Rs.7,28,013/- on account of cash deposits in bank @ 8% and 6% on non-cash deposits in the bank and addition of Rs.10,90,500/- on account of deposits made in the bank during demonetization period i.e. from 09/11/2016 to 30/12/2016. The CIT(A) has confirmed the said addition in a summary manner without appreciating the facts of the case. As such the order of the worthy CIT(A) is bad in the eyes of law and the same may kindly be cancelled and the addition made may be deleted.*

5. *That the ex-parte order passed u/s 144 is bad in the eyes of law as no notice u/s 142(1) was ever served on the assessee and as such the provisions of section 144 are not at all applicable to the present facts and circumstances of this case. The CIT(A) further did not appreciate that the AO has not followed the CBDT Circular F.No. 225/363/2017- ITA.II dated 15/11/2017 in which it was also directed that the notice u/s 142(1) shall be issued electronically as well as through Postal Services. As such the assessment order passed is bad in the eyes of law and the same deserves to be cancelled.*

6. *That the authorities below did not appreciate that in those days in Jammu & Kashmir, there was grave problem in the working of internet in J&K. The Parliament of India voted in favour of resolution tabled by Home Minister Amit Shah to revoke the temporary special status granted in Article 370 of Indian Constitution to Jammu & Kashmir. It may be submitted that as a result of this amendment, the whole J&K was disturbed and even the normal life was paralyzed. There was no regular working in Jammu & Kashmir. As a result thereof the whole business working of J&K was completely disturbed. As a result of this the notices could not be received and could not be complied. As such there was no justification in deciding the case ex-parte by invoking the provisions of section 144. As such, the Ld. CIT(A) was not justified in confirming the order of the AO and the addition made may be deleted.*

Alternatively, without prejudice to the above, the addition made is very high & excessive.

7. *That any other ground of appeal which may be argued at the time of hearing of the appeal.”*

3. The brief facts emerging from record are that the assessee has deposited cash totalling to *Rs.10.90 lakhs (Ten Lakhs Ninety thousand five hundred)* in his bank accounts during demonetisation period, with *State Bank of India A/c No. xxxxxx26873* and in *J & K Bank account no. xxxxxx00165*. Notice u/s 142(1) issued calling for return and in absence of any compliance to such notice, the assessment has been completed on a total income of *Rs.18.18 lakhs (including an addition of Rs.10.90 lakhs u/s 69A of the Act being cash deposited during demonetisation period and addition of Rs.7.28 lakhs @ 8% of the remaining bank deposits)*.

4. The matter was carried in appeal and the 1st appellate authority dismissed the appeal as *non-maintainable*, by observing that the assessee is a non filer , even though he has regular business activity under the trade name of *M/s Tariq General Stores*, at Banihal, Jammu and Kashmir and has been non responsive in assessment proceedings and as also evident from *para – 4 of the appeal order*, there has been no response to various notices issued by the first appeal authority on four separate occasion , even though a submission has been filed on the last date on *15th October, 2024* , but has not been able to explain the source of cash deposit in bank account during the demonetization period, to the satisfaction of the appellate authority.

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

6. The Id. AR of the assessee in course of hearing, submitted a short paper book and stated that the assessee is engaged in the business as a retailer of general goods and has filed copies of bank statements , trading and profit and loss account, balance sheet for the year, disclosing a turnover of *Rs.82.02 lakhs*, and filed details of cash and non cash deposits in bank account, and submitted that cash deposits in bank accounts are sourced out of regular sale proceeds and also out of re deposit of earlier withdrawals and contented that proper opportunity of hearing has never been allowed and prayed for an opportunity to explain the source of his SBN deposits from his books as maintained by him and also stated that all requisite papers and evidences filed before the first appellate authority on *15th October, 2024*, by his CA *Raj Sain and Associates* , has not been considered in its proper perspective.

7. The Id. DR relied on the order of the Id. CIT(A).

8. We have considered the materials on record and the rival submissions and are of the opinion that the source of cash deposit of SBN during demonetization needs to be satisfactorily explained through regular books as maintained by the assessee and accepting the prayer of the Ld AR of the assessee , we remand the matter back to the Ld first appellate authority , for considering all submissions , evidence and explanation of the assessee afresh , and to decide all the grounds contained in *memo*

in form 35 on merits of the case and the assessee is also directed to file all necessary supporting documents in support of his contention and to fully cooperate in appellate proceedings.

9. The assessee will be allowed reasonable opportunity of being heard.

10. We have not expressed any opinion on merits.

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

Order pronounced on 18.08.2025 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

