

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

Faqir Chand
Prop. M/s Faqir Chand & Sons
R S Pura, Jammu 181102
Jammu & Kashmir
[PAN: AGTPC 2487L]

Vs.

Income Tax Officer,
Ward -1(1), Jammu
Aaykar Bhawan, Rail Head
Complex, Panama Chowk,
Jammu 1800121
Jammu & Kashmir

(Appellant)

(Respondent)

Appellant by : Sh. P. N. Arora, Adv.
Respondent by : Sh. Charan Dass, Sr. D.R.
Date of Hearing : 11.09.2025
Date of Pronouncement : 26.09.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of the Id. CIT(A) NFAC, Delhi dated 23.10.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the AO, Ward-1(1), Jammu passed u/s 144 of the Act, 1961 dated 27.12.2019.

2. **Condonation of delay:** It is informed by the registry that the appeal filed belatedly by 35 days. The assessee has filed an application for condonation of delay on the ground that the assessee was not keeping good health and on account of various medical issues was advised complete bed rest by the doctors, and in support of his contention, he has filed medical certificates from *Jammu & Kashmir Health Department, Govt. Sub-District Hospital* dated 26.12.2024 and also a medical certificate from *Ayushman Bharat Comprehensive Primary Health Care* during the period 2024. Thereafter, after recovering the appeal has been filed on 4th Feb., 2025 belated by 35 days and he has prayed for condonation of delay on medical grounds.

3. The Id. D. R. has no objection. Considering the medical issues, we condone the delay and admit the appeal for hearing on merits.

4. The assessee has taken seven grounds of appeal in Form No. 36 and the first three grounds relates to the issue that proper opportunity of hearing has not been allowed by the Id. first appellate authority and there was no proper service of notice and as such he has prayed for an opportunity of hearing so that proper documents can be produced in support of his contentions.

5. Brief facts emerging from records are that the assessee is engaged in the business of paddy, rice and wheat trading and during the demonetization period, he has deposited an amount of *Rs.51.83 lakhs* in his bank account and even though the

assessee has filed his return, there was no compliance to notices issued u/s 143(2) in course of scrutiny assessment proceedings. In absence of proper compliance, the assessment was completed on a total income of Rs.86.32 lakhs (*with an addition of Rs.51.83 lakhs being the SBN deposits in bank account plus an amount of Rs.27.40 lakhs being profits from business estimated @ 8% on gross turnover*).

6. The matter carried in appeal before the Id. first appellate authority has been disposed of on merits on the basis of the statement of facts and grounds of appeal contained in Form No. 35 (*but without any representation from the assessee*), by allowing part relief to the assessee by deleting the addition of Rs.27.40 lakhs on account of estimated profits on turnover, but sustaining the addition of Rs.51.83 lakhs being the SBN deposited in bank during demonetization period.

7. In course of hearing before the Tribunal, the Id. AR of the assessee submitted that no proper notice has been served on the assessee and even though it is apparent from the appellate order that notice of hearing has been issued on two separate occasions, it is not ascertainable whether notice has been issued in the e-mail id provide in Form No. 35. He further submitted that the assessee maintains regular books of account and no opportunity has been allowed to the assessee to produce his regular books of account by which the cash deposit during the demonetization period can be explained.

8. The Id. DR has no objection, if the matter is remanded back to the files of the Id. CIT(A) for fresh adjudication on the said issue.

9. We have heard the rival submissions and considered the material on record and we find that the notice of hearing has not been issued in the e-mail id provide in Form No. 35 and as per the Id. AR, no notice of hearing has been received at all and no representation could be made before the Id. CIT(A). We also find that part relief has been allowed by the Id. CIT(A) on the basis of SOF and grounds of appeal contained in Form No. 35, but no adjudication on merits was possible on the grounds relating to the addition of SBN, which can be explained by production of cash book. As such, in the interest of justice, we remand the matter back to the files of the Id. CIT(A) for considering the issue of SBN notes deposited in bank and we also direct the assessee to file all necessary documentary evidences and books of account to establish and explain the source of cash deposited in bank during demonetization period, to the fully satisfaction of the Id. first appellate authority, and necessary report as per provisions of law may be obtained from the AO.

10. The assessee will be allowed reasonable opportunity of being heard and notices to be issued as per provisions of section 282 of the Act and also to the e-mail id specified in Form No. 35.

11. We have not expressed any opinion on merits of the case and all legal issues are left open.

12. 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 26.09.2025

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