

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, NAGPUR

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA no.427/NAG/2025
(Assessment Year : 2017-18)

Kanhaiya Krushi Kendra
Main Bazar Line, Fulsa Wangi
Mahagaon Dist.
Yavatmal-445001,
Maharashtra.
PAN – AAOFK4226A

..... Appellant

v/s

Income Tax Officer
Ward-1,
Aayakar Bhavan,
Yavatmal-445001,
Maharashtra.

..... Respondent

Assessee by: ShriAbhishek Kumar, A.R.
Revenue by : Shri Surjit Kumar Saha, Sr. D.R.

Date of Hearing – 08/10/2025

Date of Order – 09/10/2025

ORDER

The assessee has filed appeal against the order dated 14/10/2024, passed by the learned CIT(A)/National Faceless Appeal Centre(NFAC), Delhi u/sec 147 and u/sec250 of the Income Tax Act, 1961 (for short "*the Act*") for the A.Y. 2017-18. The assessee has raised following grounds of appeal:-

"1. Based on the facts and circumstances of the case the assessment order passed by learned A.O. is ab-intio bad in the eyes of law and needs to be set aside.

2) Based on the facts and Circumstances of the case initiation of proceedings u/s 148 of the I.T.Act 1961 is ab-intio bad in the eyes of law and needs to be set aside.

3) Based on the facts and circumstances of the case, addition u/s 68 of Rs.24,56,000/- on account of undisclosed cash credits is arbitrary, unjustified, unwarranted and against the Principal of theory of taxation and needs to be deleted.

4) Interest u/s 234A, 234 B and 234 C of the Income Tax act 1961 being consequential in nature needs to be deleted.

5) Assessee craves leave to add, alter or amend any of the grounds of appeal."

2. At the time of hearing, the Ld.AR of the assessee submitted that there is a delay in filing the appeal before the Hon'ble Tribunal and the assessee has filed an application and affidavit for condonation of delay explaining the sufficient cause. Whereas the facts mentioned in the Affidavit are reasonable and the learned D.R. has no specific objections. Accordingly, the delay is condoned and the appeal is admitted.

3. The Brief facts of the case that the assessee is a Partnership Firm and has filed the return of income for the A.Y. 2017-18, disclosing a total income of Rs.88,140/-. Subsequently, the case was selected for scrutiny and the Assessing Officer on a perusal of the information found that during the demonetization period in the F.Y.2016-17 the cash deposits aggregating to Rs.24,56,000/- made in the bank account of the assessee maintained with the Malkapur Urban Co-operative Bank Ltd and this information was not disclosed in the return of income filed by the assessee. Therefore, the Assessing Officer has reason to believe that

income has escaped assessment and issued notice u/sec 148 of the Act. In compliance the assessee has filed its return of income in lieu of notice u/sec 148 of the Act on 21/04/2021. Subsequently notice u/sec 143(2) and u/sec 142(1) of the Act along with questionnaire are issued. The assessee has also filed objections on the reasons provided for re-opening of assessment and the same was disposed off by the Assessing Officer on 21/12/2021. In compliance to the notice under section 142(1) of the Act, the assessee has submitted computation of income, audited report, bank statement and produced cash book. Whereas, the Assessing Officer has observed that the assessee is not able to substantiate and explain the source of cash deposits made in the bank account during the demonetization period and made addition of cash credits u/sec 68 of the Act of Rs.24,56,000/- and assessed the total income of Rs.25,44,140/- and passed the order u/sec 147r.w.s 144B of the Act dated 24.03.2022. The assessee being aggrieved with the order has filed appeal before the CIT(A).

4. In appellate proceedings, the CIT(A) has considered the grounds of appeal, statement of facts, findings of the Assessing Officer and issued notices of hearing on various dates. Since there was no compliance to the notices by the assessee, the CIT(A) considering the information on record has confirmed the action of the Assessing Officer and dismissed the appeal of the assessee. Aggrieved by the order of the CIT(A), the assessee has filed appeal before the Hon'ble Tribunal.

5. At the time of hearing, the learned Authorised Representative for the assessee (for short "*the learned A.R.*") submitted that the CIT(A) has erred in sustaining action of the assessing officer overlooking the submissions filed in the assessment proceedings. Further, the Ld.AR submitted that the assessee has a good case on merits and prayed for an opportunity to substantiate the claim with material evidences and information before the lower authorities. Per-*contra*, the learned Departmental Representative supported the order of the CIT(A).

6. Heard the rival submissions and perused the material available on record. The CIT(A) has dismissed the assessee's appeal, as there was no compliance to the notices issued in the appellate proceedings on various dates dealt at Page 4 Para4.1 of the order. Further the CIT(A) is of the opinion that the assessee is not interested in prosecuting its appeal and has confirmed the action of the Assessing Officer. Whereas, the learned A.R., in the course of hearing, submitted that the assessee has a good case on merits and shall substantiate with material evidences before the authorities. Whereas, the assessee has raised grounds of appeal challenging the action of the assessing officer. There could be various reasons for non-compliance by the assessee which cannot be ruled out. Hence, considering the facts, circumstances, submissions of the learned A.R and to meet the ends of justice, the assessee should be provided one more opportunity for hearing. Accordingly, the order of the CIT(A) is set

aside and restore the disputed issues to the file of the CIT(A) to adjudicate issues afresh on merits and the assessee should be provided adequate opportunity of hearing and the assessee should co-operate in submitting the information for early disposal of appeal. And the grounds of appeals of the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 09/10/2025

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur