



आयकर अपीलीय अधिकरण 'ए' न्यायपीठ, लखनऊ।
**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "A", LUCKNOW**

श्री कुल भारत, उपाध्यक्ष एवं श्री अनादी नाथ मिश्रा, लेखा सदस्य के समक्ष
**BEFORE SHRI KUL BHARAT, VICE PRESIDENT AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

आयकर अपील सं/ ITA No.446/LKW/2024

निर्धारण वर्ष/ Assessment Year: 2017-18

Income Tax Officer-2(1) Room No.318, Plot no.57, Pratyaksh Kar Bhawan, Ram Teerath Marg, Narhi, Lucknow- 226001.	v.	Shyam Sagar Yadav 225, Jiamau, Hazratganj, Lucknow-226001.
PAN:BDKPS3230A		
अपीलार्थी/(Appellant)		प्रत्यर्थी/(Respondent)

अपीलार्थी कि और से/Appellant by:	Shri Amit Kumar, CIT-(DR)		
प्रत्यर्थी कि और से /Respondent by:	Shri Shyam Sagar Yadav (Assessee in person) along with Shri P. K. Kapoor, C.A. & Shri Shailendra Mishra, Advocate (Providing pro bona services to the appellant)		
सुनवाई कि तारीख / Date of hearing:	08	01	2026
घोषणा कि तारीख/ Date of pronouncement:	15	01	2026

आदेश / O R D E R

PER KUL BHARAT, VICE PRESIDENT.:

This appeal, by the Revenue, is directed against the order of the Learned Commissioner of Income tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi dated 19.04.2024, pertaining to the assessment year 2017-18. The Revenue has raised the following grounds of appeal: -

"1.Because on the facts and circumstances of the case, the Ld. CIT(A) has erred in law and in facts while deleting the penalty u/s 271AAC(1) of the Act, amounting to Rs.60,29,841/- levied on account of unexplained money u/s 69A of Rs,10,04,97,350/- ignoring that cash deposit of Rs.10,04,97,350/- was added to the income of assessee and income tax was charged as per provisions of section 115BBE of the Income Tax Act."

2. The appeal is time barred by 34 days. The Revenue has filed an application seeking condonation of delay in filing of appeal. After perusal of application, we have satisfied that delay in filing of appeal was for *bonafide* reasons and not on account of negligence or inaction on the part of Revenue. The delay in filing of appeal is condoned and appeal is admitted for hearing on merits.

3. At the outset, the Ld. Counsel for the assessee submitted that in the quantum appeal, the Tribunal (ITAT 'A' Bench Lucknow) vide its order dated 16.10.2025 has deleted the addition. Consequently, the penalty does not survive. He has also placed on record a copy of the said order of the Tribunal passed in the quantum appeal in ITA No. 445/LKW/2024 for A.Y. 2017-18.

4. On the other hand, the Ld. Departmental Representative for the Revenue supported the order of the Assessing Officer and relied on the penalty order.

5. We have heard the rival submission, perused the materials available on record and gone through the orders of the authorities below. We note that this Tribunal, in the quantum appeal in *ITO, Lucknow vs. Shyam Sagar Yadav*, ITA No. 445/LKW/2024 for A.Y. 2017-18, vide order dated 16.10.2025, has deleted the addition made by the Assessing Officer and confirmed by the Ld. CIT(A) has been deleted by holding as under: -

"7. Heard the Ld. Representatives of the parties and perused the material available on records. The Revenue has not disputed the fact that the assessee had entered into an agreement with the SBI to act as its Correspondent/Bank Mitra. As per the terms of the agreement, the assessee was authorized to collect the cash and make payment to the customers of the SBI. The assessee throughout has been stating that the cash in question pertained to the concerned branch of SBI and such Act of

the assessee was duly supported by the relevant terms of the agreement. During the course of assessment proceedings, the assessee had asked the bank manager about the specific details related to the cash. The response of the bank manager in this regard "we submit that Sh. ShyamSagaryadav was working as banking corresponding during the period in question i.e. 01.04.2016 to 31.03.2017 and as per the agreement with the bank he was authorized to collect cash and make payments under terms of agreement. The branch is presently not in the position to confirm/verify that the amount deposited by the assessee in the said account was consequently deposited in the concerned account holder's account since the volume of the transactions is quite large. However, we would like to submit that we have received no complaints against the assessee for the period in question for non-deposit of amount in concerned account holder's account which may answer your query". However, the Assessing Officer did not appreciate the explanation offered by the assessee in the right perspective and drew an adverse inference by treating the amount as the income of the assessee in terms of Section 69A of the Act. Such an action by the Assessing Authority, without making any further inquiry from the assessee's account statement or calling for records from the bank, in our considered view, would not be justified. Considering the totality of the facts and materials available on record, we do not see any infirmity in the finding of the Ld. CIT(A) for deleting the impugned addition. The grounds raised by the Revenue are thus, dismissed."

6. It is undisputed that the Tribunal, in the quantum appeal, has sustained the finding of the Ld. CIT(A) deleting the addition on the ground that the assessee was merely acted as an agent of the bank and that the money deposited in the bank account pertained to the bank. The factum of assessee being the agent has also been duly accepted by the branch manager of the bank. Under these facts, when the impugned addition has been deleted the penalty imposed on the basis of such addition would not survive. Therefore, grounds raised by the Revenue are rejected.

7. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court on 15/01/2026.

Sd/-

[अनादी नाथ मिश्रा]

[ANADEE NATH MISSHRA]

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

[कुल भारत]

[KUL BHARAT]

उपाध्यक्ष/VICE PRESIDENT

दिनांक/DATED: 15/01/2026

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard File

// True Copy//

By order
Assistant Registrar