



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

श्री कुल भारत, उपाध्यक्ष के समक्ष
BEFORE SHRI KUL BHARAT, VICE PRESIDENT

आयकर अपील सं/ ITA No.2/LKW/2026

निर्धारण वर्ष/ Assessment Year: 2017-18

Kafeel Ahmad Mohh. Shernagar Ward No.5, Baheri, Bareilly, Bareilly- 243201.	v.	Income Tax Officer Ward-1(3) CR Building Kamla Nehru Marg, Bareilly, Bareilly- 243001.
PAN:AQAPA2526P		
अपीलार्थी/(Appellant)		प्रत्यर्थी/(Respondent)

अपीलार्थी कि और से/Appellant by:	Shri Sharad Tandon, Advocate		
प्रत्यर्थी कि और से /Respondent by:	Shri Amit Kumar, CIT(DR)		
सुनवाई कि तारीख / Date of hearing:	05	03	2026
घोषणा कि तारीख/ Date of pronouncement:	27	03	2026

ORDER

PER KUL BHARAT, VICE PRESIDENT.:

This appeal, by the assessee, is directed against the order of the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi dated 28.02.2024 pertaining to the assessment year 2017-18. The assessee has raised the following grounds of appeal: -

"1. Because on the facts and in the circumstances of the case the order of Ld. CIT(A) as also Assessment is bad in law and deserves to be quashed being illegal.

2. Because on the facts and in the circumstances of the case the order of Ld. AO is bad in law in making addition U/s 69A without considering the submission of the assessee, hence liable to be set aside.

3. Because on the facts and in the circumstances of the case Ld. CIT (A) erred on facts and in law in confirming addition of Rs 12,18,000.00 made by the learned Assessing Officer u/s 69A of Income Tax Act in violation of

the established rule of evidence and the principle of natural justice and therefore said addition is liable to be deleted.

4. Because on the facts and in the circumstances of the case the order of Ld. CIT(A) has further erred in sustaining addition under Section 69A of the Act as unexplained money, by arbitrarily rejecting an exhaustive, valid and legitimate explanation tendered by the assessee before the Ld. AO. The all the transactions are recorded in its books of account and is evidenced through banking transactions. Thus, the addition has been sustained on material and whimsically.

*5. Because, on the facts and in the circumstances of the case, Ld. CIT(A) did not considered the submission of appellant that the cash deposited in during demonetization amounted to Rs. 12,18,000.00 relates to business receipts in SBN renders the addition bad in law and the order so passed deserves to be set **aside**.*

6. Because on the facts and in the circumstances of the case, Ld. CIT(A) fails to consider the nature of business and cash deposited which are very common in such type of business.

7. Because on the facts and in the circumstances of the case, the order of assessment has been passed in absolute violation of the principles of natural justice, without providing adequate opportunity of being heard and therefore deserves to be declared a nullity.

8. The appellant craves for leave to add, modify, amend or delete any other and further grounds of appeal with permission.”

2. The present appeal is barred by limitation by 611 days. The assessee has filed an application seeking condonation of delay, supported by an affidavit. The Ld. counsel for the assessee reiterated the submissions as made in the application for condonation of delay and relied upon the contents of the accompanying affidavit. It was submitted that the assessee was not aware of the order passed by the Ld. CIT(A) dated 28.02.2024 and, therefore, the appeal could not be filed within the prescribed time before the Hon'ble Tribunal. The reason for the delay was that the notices/orders were not served upon the assessee, as the email address and phone number of the previous Ld. Counsel continued to be reflected on the Income Tax Portal. It was further submitted that the assessee came to know about the said order only when he contacted another counsel for filing his Income Tax Return. Thus, the delay occurred due to *bona fide* reasons

beyond the control of the assessee, and the assessee was prevented by “sufficient cause” from filing the appeal within the prescribed period of limitation.

3. Per contra, the Ld. Departmental Representative strongly opposed the submissions of the assessee and contended that the assessee cannot take advantage of his own negligence. It was submitted that no “*sufficient cause*” has been shown for condonation of such an inordinate delay and, therefore, the appeal deserves to be dismissed on the ground of limitation alone.

4. Heard the Ld. Representatives of the parties. It is the case of the assessee that the impugned order was not received within time. The appellant came to know about the said order only when he contacted his Ld. counsel. Considering the fact that there was no representation before the Ld. CIT(A) and that the order has been passed *ex parte*, the reasons stated for the delay are found to be beyond the control of the assessee. Accordingly, the delay in filing the appeal is condoned and the appeal is admitted for hearing.

5. At the outset, the Ld. Counsel for the assessee, apropos to the grounds of appeal, contended that in this case, the assessment has been framed u/s 144 of the Income Tax Act, 1961 (“Act”, for short) as the assessee was unable to effectively represent her case during the assessment proceedings. Therefore, the Assessing Officer determined the total income at Rs.16,16,447/-, as against the returned income of Rs. Nil. It is contended that aggrieved by the assessment order, the assessee preferred appeal before the Ld. CIT(A), who also dismissed the appeal of the assessee without considering the fact that the cash

deposited in the bank account of Rs.12,18,000/- was out of the business receipts which had already been included in the total business turnover. The Ld. Counsel for assessee contended that the assessee is ready to furnish the requisite details before the lower authorities. He prayed that the matter may be remanded back to the Assessing Officer for verification and fresh adjudication.

6. On the other hand, the Ld. Departmental Representative (DR) opposed the submission and supported the orders of the lower authorities. He contended that the sufficient opportunity was granted to the assessee, but the assessee failed to furnish supporting evidences. He submitted that in the absence of supporting evidence, the AO was justified for treating the amount into the bank account as unexplained investment.

7. I have heard the Ld. Representatives of the parties and perused the material available on record. There is no dispute regarding the fact that, in the present case, the assessment was framed under section 144 of the Act vide order dated 26.11.2019. It is noticed from the record that the Assessing Officer issued show-cause notices dated 22.01.2018 and 11.06.2019, to which the assessee filed replies on the respective dates. In the said replies, the assessee explained the transactions reflected in the bank account bearing No. 20000000008135 with Nainital Bank, Baheri Branch, as well as another account bearing No. 6000000000100 maintained with the same bank. It is further noted that the Assessing Officer received certain information from the bank, and the assessment order was thereafter passed on 26.11.2019. Therefore, there was insufficient time available to confront the assessee with the said information. In my

considered view, if, anything adverse in the form of same evidence is recovered from the bank account of the tax-payers, the same may be dealt with by the AO in accordance with law by giving opportunity to the assessee for explaining the same. If the assessee is not provided such opportunity that would clearly violate the principles of natural justice. Therefore, considering the totality of the facts and the material placed before me, to subserve the principles of natural justice and to be fair with both the parties, I deem it necessary and expedient under the facts of the present case to set aside the impugned order and restore the assessment to the file of the Assessing Officer. The Assessing Officer shall afford adequate opportunity to the assessee with regard to the information received from the bank about the account in question held by the assessee. The grounds raised in the appeal are allowed for statistical purposes in the terms indicated hereinabove.

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

Order pronounced in the open Court on 27/03/2026.

Sd/-

[कुल भारत]

[KUL BHARAT]

उपाध्यक्ष/VICE PRESIDENT

DATED: 27/03/2026

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

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

//True Copy//

By order
Sr. Private Secretary