

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'A': NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT  
AND  
SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.766/DEL/2024  
(Assessment Year: 2017-18)**

Brijendra Kumar Yadav,  
RZP-321, Raj Nagar – II,  
Palam Colony,  
New Delhi – 110 045.

vs.

ITO, Ward 44 (4),  
Delhi.

**(PAN : AASPY4492Q)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Lalit Mohan, CA  
Shri Parth, Advocate  
REVENUE BY : Shri Kanv Bali, Sr. DR

Date of Hearing : 01.08.2024  
Date of Order : 23.08.2024

**ORDER**

**PER S.RIFAUR RAHMAN,AM:**

The assessee has filed appeal against the order of the Learned Commissioner of Income Tax (Appeals), Delhi ["Ld. CIT(A)", for short]/National Faceless Appeal Centre (NFAC) dated 03.01.2024 for the Assessment Year 2017-18.

2. In this case, the assessee e-filed his original return of income on 31.10.2017 declaring total income of Rs.12,25,280/-. Subsequently, the case was selected for complete scrutiny on the basis of CASS for the reason 'cash

deposit during demonetization period. Assessing Officer got the information that the assessee had deposited Rs.2,08,13,500/- in cash in the bank accounts during the period of demonetization. AO issued notices under section 142(1)/143 (2) of the Income-tax Act, 1961 (for short 'the Act') but the assessee had not filed any reply to those notices. Further, AO issued show cause notice asking to give explanation for source of the cash deposits. Assessing Officer held that as the assessee had failed to reply to the show cause notice issued, therefore, the cash deposits was treated as unexplained and brought the income of the assessee to tax under section 69A of the Act read with section 115BBE of the Act vide ex-parte order u/s 144 of the Act dated 26.12.2019.

3. Aggrieved with the above order, assessee preferred an appeal before the Id. CIT (A) who confirmed the order of the Assessing Officer.

4. Aggrieved with the above order of Id. CIT (A), assessee is in appeal before us.

5. Ld. counsel for the assessee submitted that the Id. CIT (A) has erred in upholding the addition representing cash deposited in the bank during the period of demonetization and brought to tax under section 69A of the Act read with section 115BBE of the Act. He further submitted that while upholding the above addition, the Id. CIT (A) has failed to appreciate the factual substratum of the case, statutory provisions of law and also failed to appreciate that cash deposits in the bank account are from sale of milk and as such addition upheld

is not in accordance with law. He submitted that the Id. CIT (A) has failed to appreciate that the AO having accepted the cash sales and taxed income thereon could not by any stretch of imagination either legally or logically hold that cash deposited is unexplained and taxable as income of the assessee u/s 69A of the Act. He further submitted that the Id. CIT (A) has also erred both in law and on facts in upholding the addition by failing to appreciate that once books of accounts are correct and complete and therefore, the sales as recorded in the books of accounts out of stock available with the assessee could be regarded as cash sales merely on statements without disregarding the factual matrix/evidence tendered by the assessee. Ld. counsel further made several contentions to support his case. He also submitted that he has submitted various documents before the Id. CIT (A) and also placed the same in the form of paper book before this Tribunal.

5.1 Ld. counsel further pleaded that the Assessing Officer has passed the order ex-parte and assessee was not able to produce the relevant documentary evidences before him and the Id. CIT (A) did not appreciate the material produced before him, therefore, he prayed that the matter may be remitted back to the Assessing Officer to appreciate the documentary evidences and affording an opportunity of being heard to the assessee and then decide the matter as per law.

6. On the other hand, ld. DR for the Revenue objected to the submissions of the ld. counsel for the assessee and relied upon the orders of the authorities below.

7. Considered the rival submissions and material placed on record. We find that the Assessing Officer has passed the order ex-parte and ld. CIT (A) has not appreciated the documentary evidences properly. We observe that the disallowance made by the Assessing Officer needs verification of the documentary evidence filed by the assessee. Therefore, in the interest of justice, we direct Assessing Officer to consider the documentary evidences and also give an opportunity of being heard to the assessee and then decide the matter on merit as per law. We also direct assessee to make proper submissions and appear before Assessing Officer on the date of hearing and cooperate with the tax authorities. Accordingly, the appeal filed by the assessee is allowed for statistical purposes.

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

**Order pronounced in the open court on this 23<sup>rd</sup> day of August, 2024.**

Sd/-

sd/-

**(SAKTIJIT DEY)  
JUDICIAL MEMBER**

**(S.RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

Dated:23.08.2024  
TS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals).
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI