

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'D' BENCH, CHENNAI
श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष ।
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri Jagadish, Accountant Member

आयकर अपील सं./I.T.A. No.1225/Chny/2025
निर्धारण वर्ष/Assessment Year: 2017-18

S.S.S. Export,
D.No. 36/2, Mariyamman Koil Street,
Valliamma Pudur, Nambiyur,
Gobichettipalayam, Erode 638 458.
[PAN:ABWFS8232K]

Vs. The Income Tax Officer,
Ward 1(1),
Erode.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by	:	Shri T.S. Lakshmi Venkataraman, F.C.A.
प्रत्यर्थी की ओर से/Respondent by	:	Shri Vijay Kumar, JCIT
सुनवाई की तारीख/ Date of hearing	:	18.06.2025
घोषणा की तारीख /Date of Pronouncement	:	25.06.2025

आदेश /O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order dated 28.03.2025 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi for the assessment year 2017-18.

2. The assessee raised 6 grounds of appeal amongst which, the only issue emanates for our consideration as to whether the Id. CIT(A) is justified in confirming the additions made by the Assessing Officer on account of treating cash deposits during demonetization period as

unexplained and unaccounted income under section 69A of the Income Tax Act, 1961 ["Act" in short].

3. When the appeal was taken up for hearing, the AR Shri T.S. Lakshmi Venkataraman, F.C.A submits that the Registry of ITAT issued defect notice on the ground that assessee had paid appeal fees of ₹.500/- only instead of ₹.10,000/-. The Id. AR further submits that the appeal was dismissed *in limine* by the CIT(Appeals) only on the ground of non-compliance to the hearing notices and not on merits and therefore, the fees as per clause (d) of Section 253(6) of the Income Tax Act, 1961 ["Act" in short] was only ₹.500/-. He placed reliance on the decision of Co-ordinate Bench in the case of Aasife Biriyan Private Limited v. ITO in ITA No. 2460/Chny/2024 dated 10.12.2024 and pleaded to admit the appeal of the assessee.

4. We have perused the above case law and noted that the Coordinate Benches of the Tribunal followed the decision in the case of Anil Kumar Ohja vs. DCIT in ITA No.189/Mds/2012, dated 28.03.2012 for assessment year 2005-2006 and held as under:

3. *We find that the issue deficit appeal fees is squarely covered in favour of the assessee by the decision of the Co-ordinate Bench of the Tribunal in the case of Anil Kumar Ohja (supra) which held as under:-*

'2. We find that there is a letter filed by the assessee whereby he objected to a notice from the Registry regarding short payment of

fees. Ld. counsel for the assessee submitted that the appeal was dismissed by the CIT(Appeals) only on the ground of non-appearance and not on merits. Therefore, as per the assessee, the fees as per clause (d) of Section 253(6) of Income-tax Act, 1961 (in short 'the Act') was only 500/-. In support, learned counsel has filed a decision of Hon'ble Karnataka High Court in the case of Rajakamal Polymers (P) Ltd. v. CIT (291 ITR 314) and also a decision of Hon'ble Patna High Court in the case of Dr. Ajith Kumar Pandey v. ITAT (310 ITR 195).

3. We find that CIT(Appeals) had dismissed the assessee's appeal for non-prosecution and had not considered the issue on merits. In our opinion, in such a situation, the fees paid has to be as per clause (d) of Section 253(6) of the Act. The assessee has rightly paid the sum of 500/- as stipulated in the said clause of the Act. In the case of Rajakamal Polymers (P) Ltd. (supra), Hon'ble Karnataka High Court had held that when an appeal was rejected by the CIT(Appeals) on the ground of limitation, the fee payable for further appeal before this Tribunal, was only 500/- under clause (d) of Section 253(6) of the Act. In our opinion, there is not much difference between an order of CIT(Appeals) which is not on merits, but dismissing an appeal whether on account of limitation or on account of non-appearance of the parties. In this view of the matter, we admit the appeal of the assessee''.

4. Respectfully following the co-ordinate bench decision, we admit the appeal of the assessee for adjudication and overruled the objection of the Registry....."

5. In view of the above decisions of the Coordinate Benches of the Tribunal, the appeal filed by the assessee on payment of appeal fees at ₹.500/- is admitted for adjudication.

6. We note that the Assessing Officer found the assessee made cash deposits during demonetization period to an extent of ₹.17,05,000/-, which is evident from para 1 of the assessment order and no return of income filed for AY 2017-18. Against the notice issued under section 148

of the Act requiring the assessee to file the return of income, the assessee filed his return of income at ₹.19,510/- on 09.09.2019. Subsequently, The Assessing Officer issued notice under section 143(2) of the Act on 23.09.2019 and also notice under section 142(1) of the Act dated 14.11.2019 calling for details. On perusal of the details furnished by the assessee, the Assessing Officer noted that the assessee had deposited SBN on 11.11.2016 at ₹.2,00,000/-, on 18.11.2016 at ₹.10,00,000/- and on 21.11.2016 at ₹.5,00,000/-. After considering the submissions of the assessee and by accepting the initial deposit of ₹.2,00,000/- as cash in hand since the assessee had the opening book balance as on 08.11.2016 at ₹.5,84,042/-, the Assessing Officer treated the remaining cash deposits of ₹.15,00,000/- during demonetization period as unexplained money under section 69A of the Act and added to the total income of the assessee and completed the assessment under section 143(3) r.w.s. 147 of the Act dated 17.12.2019. On appeal, the Id. CIT(A) confirmed the addition made by the Assessing Officer and dismissed the appeal of the assessee for non-compliance to the hearing notices issued by the Id. CIT(A).

7. The Id. AR Shri T.S. Lakshmi Venkataraman, F.C.A. submits that non-compliance to the hearing notices issued by the Id. CIT(A) is neither

wilful nor wanton. The Id. AR undertakes to put appearance and furnish complete details and thus, prayed that the assessee may be afforded one more opportunity to prosecute his case before authorities below.

8. The Id. DR Shri Vijay Kumar, JCIT drew our attention to para 5 of the impugned order and argued that the Id. CIT(A) afforded ample opportunities to the assessee, but the assessee could not furnish any explanation or documentary evidence in support of grounds raised by the assessee.

9. Heard both the parties and perused the material available on record. In this case, the Assessing Officer completed the assessment under section 143(3) r.w.s. 147 of the Act by making addition under section 69A of the Act, against which the assessee preferred an appeal before the Id. CIT(A). As per para 5 of the impugned order, we note that the Id. CIT(A) issued hearing notices dated 28.12.2020, 04.11.2021, 20.01.2022, and 13.03.2025, but, however, neither any reply was furnished nor any adjournment was sought for by the assessee. We note that in his written submissions, the Id. AR undertakes to put his appearance and furnish complete details to substantiate the claims of the assessee and prayed for affording one more opportunity. Considering the submissions of the Id. AR and the Id. DR and in the interest of justice,

we deem it proper to afford one more opportunity and remand the matter to the file of the Id. CIT(A) to consider the explanations and documentary evidences as may be filed by the assessee and decide the issue afresh. Thus, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced on 25th June, 2025 at Chennai.

Sd/-
(JAGADISH)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 25.06.2025

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.