

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC-1" BENCH, AHMEDABAD**

**BEFORE SHRI P.M. JAGTAP, VICE-PRESIDENT
AND SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

**ITA No. 177/Ahd/2021
Assessment Year : 2017-18**

Shri Rajkumar Tiwari, 252, Parshavnath Township, Nava Naroda, Ahmedabad-382350 PAN : AHOPT 5391 G	Vs	Income Tax Officer, Ward 3(3)(9), Ahmedabad
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Nishith B. Jesur, AR
Revenue by :		Shri Vijay Kumar Singh, Sr. DR

सुनवाई की तारीख/Date of Hearing : 17/06/2022
घोषणा की तारीख /Date of Pronouncement: 13/07/2022

आदेश/O R D E R

PER P.M. JAGTAP, VICE-PRESIDENT:

This appeal filed by the assessee is directed against the order of learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ["CIT(A)" in short] dated 25.05.2021 whereby he dismissed the appeal of the assessee by treating the same as time barred.

2. The assessee, in the present case, is an individual who filed his return of income for the year under consideration on 28.02.2018 declaring a total income of Rs.3,95,320/-. The said return was selected for limited scrutiny in order to verify the cash payments made by the assessee against credit card purchases and a notice under Section 143(2) of the Income-tax Act, 1961 ("the Act" in short) was issued by the Assessing Officer to the assessee on 14.08.2018. There was, however, no response on the part of the assessee to the said notice issued by the Assessing Officer under Section 143(2) of the Act as well as to the subsequent notices issued by the Assessing Officer under Section 142(1) of the Act. The Assessing Officer, therefore, was left with no option but to complete the assessment *ex-parte* to the best of his judgment on the basis of material available on record. In the assessment so completed under Section 144 of the Act vide order dated 25.11.2019, the cash payments made by the assessee against credit card purchases amounting to Rs.6,54,300/- during the year under consideration was treated by the Assessing

Officer as unexplained and addition to that extent was made by him to the total income of the assessee under Section 69C of the Act.

3. The addition made by the Assessing Officer on account of unexplained expenditure under Section 69C of the Act amounting to Rs.6,54,300/- was challenged by the assessee in an appeal filed before the learned CIT(A). There was, however, a delay of 5 months in filing the said appeal on the part of the assessee. In this regard, it was submitted on behalf of the assessee before the learned CIT(A) that he had not received any notice issued by the Assessing Officer and was not aware about the assessment proceedings initiated in this case. It was submitted that he came to know about the same only when his bank account was attached in February 2020 and thereafter he approached to the concerned Assessing Officer to get the relevant details and filed the appeal only on 03.06.2020 due to Covid-19 situation. This explanation offered by the assessee while seeking condonation of the delay of 5 months in filing the appeal was not found acceptable by the learned CIT(A) and declining to condone the said delay, he dismissed the appeal of the assessee as barred by limitation vide an appellate order dated 25.05.2021. Aggrieved by the order of the learned CIT(A), the assessee has preferred this appeal before the Tribunal.

4. We have heard the arguments of both the sides and also perused the relevant material available on record. In our opinion, the explanation offered by the assessee for the delay of about 5 months in filing the appeal before the learned CIT(A) constituted a sufficient cause in the facts and circumstances of the case including especially the fact that there was complete lockdown declared by the Govt. of India to prevent the spread of Covid-19 virus during the relevant period. We, therefore, condone the said delay.

5. As regards the merit of the issue involved in this case relating to the addition of Rs.6,54,300/- made by the Assessing Officer under Section 69C of the Act by treating the cash payments made by the assessee against credit card purchases as unexplained expenditure, the learned Counsel for the assessee has

submitted that the matter may be restored to the file of the Assessing Officer as neither the Assessing Officer nor the learned CIT(A) has considered and decided the issue on merits. The learned DR, on the other hand, has submitted that sufficient opportunity was given by the Assessing Officer to the assessee during the course of assessment proceedings of being heard on the issue and if at all the Tribunal is inclined to restore the matter to the file of the Assessing Officer, a cost may be imposed on the assessee for his negligent and casual attitude shown during the course of assessment proceedings. We are inclined to accept this contention of the learned DR. We accordingly impose a cost of Rs.5000/- [Rs. Five Thousand Only] on the assessee and subject to the payment of the said cost to the Prime Minister's Relief Fund, we restore the matter to the file of the Assessing Officer for deciding the same afresh on merit in accordance with law after giving proper and sufficient opportunity of being heard to the assessee.

6. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open Court on 13th July 2022 at Ahmedabad.

Sd/-

(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Ahmedabad, Dated 13/07/2022

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Sd/-

(P.M. JAGTAP)
VICE-PRESIDENT

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधिआयकर अपीलीय अधिकरण ,/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

TRUE COPY

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण
ITAT, Ahmedabad