

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'C' : NEW DELHI)**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCE)

**ITA No.616/Del./2018
(Assessment Year : 2013-14)**

M/s. Gurgaon Scaffolding Pvt. Ltd., vs. ITO, Ward 1 (4),
House No.564, Sector 10A, Khandsa Road, Gurgaon, Haryana.
Gurgaon 122 001 (Haryana)

(PAN : AAECG4288K)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri K. Sampath, Advocate
Shri V. Raja Kumar, Advocate
REVENUE BY : Shri Rajesh Kumar, Senior DR

Date of Hearing : 31.08.2021
Date of Order : 31.08.2021

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

Appellant, M/s. Gurgaon Scaffolding Pvt. Ltd. (hereinafter referred to as 'the assessee') by filing the present appeal sought to set aside the impugned order dated 16.08.2017 passed by the Commissioner of Income-tax (Appeals)-1, Gurgaon qua the assessment year 2013-14 on the grounds inter alia that :-

**“On the facts and in the circumstances of the case and in law the
Ld. CIT (A) erred in :**

1. not admitting additional evidence furnished under Rule 46A of the Income Tax Rules, 1962 thereby denying the appellant the opportunity of furnishing supporting evidences which were denied in the assessment;
2. confirming the following additions made to the returned income by the assessing officer:
 - a) Rs.26,05,100/- being the amount of cash deposits in the bank account out of cash available in the books;
 - b) Rs.45,50,000/- on account of unsecured loan, treating the same as unexplained;
 - c) Rs.1,73,53,878/- on account of sundry creditors;
 - d) Rs.5,50,000/- on account of rent and interest, invoking provisions of Section 40 (a) (ia) of the Act.
 - e) Rs.5,50,240/- on account of investment in fixed assets, treating the same as unexplained;
 - f) Rs.71,204/- on account of expenses under various heads on adhoc basis;

All the above actions being misconceived, erroneous and unjust must be quashed with directions for relief.”

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : Assessing Officer (AO) framed the assessment under section 144 of the Income-tax Act, 1961 (for short ‘the Act’) by making additions to the tune of Rs.2,68,07,200/- on account of income from undisclosed sources, unsecure loans, short term browsing, fixed assets, rent interest expenses and 1/5th of different expenses to the tune of Rs.26,05,100/-, Rs.45,50,000/-, Rs.1,73,53,878/-, Rs.5,50,240/-, Rs.5,50,000/- and Rs.71,204/- respectively on the ground that despite issuance and service of the notice to the assessee, none

appeared on behalf of him and thereby framed the assessment at total income of Rs.2,68,07,200/-.

3. Assessee carried the matter before the Id. CIT (A) by way of filing appeal who has upheld the assessment framed by the AO by dismissing the appeal. Feeling aggrieved, the assessee has come up before the Tribunal by way of filing the present appeal.

4. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

5. Undisputedly, assessment in this case has been framed ex-parte u/s 144 of the Act. It is also not in dispute that notices u/s 143(2) & 142(1) were issued on 10.09.2015 & 06.08.2015 respectively and claimed to have been served upon the assessee. It is also not in dispute that the assessee has moved an application for bringing on record additional evidence under Rule 46A of the Income-tax Rules, 1962 but the same was declined by the Id. CIT(A).

6. Bare perusal of the assessment order framed in this case goes to prove that the entire proceedings have been carried out in haste. Para 4.4 of the impugned order passed by the Id. CIT (A) shows that the assessee has sought to lead additional evidence but the

same was declined after receiving report from the AO apparently on hyper technical ground that when no evidence has been submitted by the assessee during the assessment proceedings, no additional evidence may be admitted.

7. In these circumstances, we are of the considered view that neither at the stage of assessment proceedings nor at the stage of first appellate proceedings assessee has been given adequate opportunity of being heard and the case has been disposed off on both the stages for the sake of disposal only. To decide the issue once for all, adequate opportunity is required to be given to the assessee. So, the case is remitted back to the AO to decide afresh by considering all the evidence available with AO including additional evidence sought to be led before Id. CIT (A) after providing adequate opportunity of being heard. Consequently, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in open court on this 31st day of August, 2021 after the conclusion of hearing through video conference.

**Sd/-
(N.K. BILLAIYA)
ACCOUNTANT MEMBER**

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 31st day of August, 2021.
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Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-1, Gurgaon.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.