

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "D" BENCH: NEW DELHI**

(THROUGH VIDEO CONFERENCING)

**BEFORE SHRI G. S. PANNU, PRESIDENT
&
SHRI C. N. PRASAD, JUDICIAL MEMBER**

**ITA No.1768/Del/2021
[Assessment Year : 2017-18]**

**S. A No. 244/Del/2021
[Assessment Year 2017-18]**

Yasmine Hilton Plot NO. 7, Shell India Markets, Private Limited , Bangalore, Karnataka ABOPH5976R	vs	ACIT International Taxation Haryana, Gurgaon
APPELLANT		RESPONDENT
Appellant by	Sh. Vishal Kalra, Adv and Sh. S. S. Tomar, Adv	
Respondent by	Sh. Sukesh Kumar Jain, CIT(DR)	
Date of Hearing	27.12.2021	
Date of Pronouncement	27.12.2021	

ORDER

PER C. N. PRASAD, JM :

This appeal is filed by the assessee against the order of the Ld.CIT (A)-43, Delhi dated 16/8/2021 for Assessment Year 2017-18. The assessee also filed Stay Application, Stay Application No. 244/Del/2021 seeking stay of recovery of outstanding demand for the Assessment Year 2017-18. First we take up the appeal for adjudication. The assessee has raised several grounds in its appeal

apart from Ground No. 3 challenging the order of Ld.CIT(A) in passing the order in violation of principles of natural justice. Ground of appeal read as under:-

3. That on the facts and in the circumstances of the case and in law, the CIT(A) has erred in upholding the assessment under section 144 of the Act and in doing so completely ignored the submissions/documentary evidences placed on record during assessment/ appellate Proceedings as well as by way of additional evidence, thus, violating the principles of natural justice.

2. Ld. Counsel for the assessee at the outset submits that this appeal shall go back to the Ld.CIT(A) since it was passed in violation of principles of natural justice. Ld. Counsel submits that even though a remand report was called for by the Ld.CIT(A) from the Assessing Officer such remand report was never put to the assessee for its rebuttal. The Ld. Counsel for the assessee submits that Ld.CIT (A) has simply gone by the remand report of the Assessing Officer and he has not discussed the merits of the case and there is no decision taken on merits. Ld. Counsel for the assessee referring to Page No. 282 of the compilation, submitted that in fact the assessee has uploaded all its evidences submissions before the Ld.CIT(A) including the appeal papers and Ld.CIT(A) neither referred to nor discussed in its order about the information uploaded by the assessee. The Ld. Counsel for the assessee further referring to Page 4 Para 5 of the assessment order submits that the Assessing Officer issued show cause notice on 28/12/2019 requiring the assessee to explain the nature of exempt income with supporting documentary evidences by 29/12/2019 and the assessment was completed on 31/12/2019 observing that no satisfactory reply has been received from the assessee. Ld. Counsel for the assessee submits that adequate opportunity and reasonable time was not given to the assessee to furnish the documentary evidences in the course of assessment proceedings. Therefore, Ld. Counsel for the assessee submits that the appeal

may be restored back to the file of the Ld.CIT(A) for fresh hearing as there is lack of opportunity before the Assessing Officer as well as before the Ld.CIT(A).

3. When this is put to the Ld. DR , the Ld. DR submitted that he has no objection if the matter is restored to the file of the Ld.CIT(A) for fresh hearing.

4. On hearing both the parties and perusing the orders of the authorities below, we observe that the Assessing Officer as well as the Ld.CIT(A) have not given sufficient opportunity to the assessee to place its submissions/evidences. We also observe from the order of the Ld.CIT(A) that the submissions evidences filed by the assessee were not appreciated while disposing off the appeal of the assessee. We also observe that there is no finding of the Ld.CIT(A) in furnishing a copy of remand report called from the Assessing Officer to the assessee to rebut the findings of the Assessing Officer in his remand report. We observe that there is lack of opportunity to the assessee in this case. Thus, we are of the view that this appeal should go back to the Ld.CIT(A) who shall decide all the issues afresh after providing adequate opportunity of being heard to the assessee. Thus, this appeal is restored to the file of the Ld.CIT(A) for denovo adjudication in accordance with law.

5. Since, we have disposed off the appeal of the assessee, the Stay Application filed by the assessee became infructuous.

6. In the result, the appeal of the assessee is allowed for statistical purpose and the Stay Application is dismissed as infructuous.

Above decision was pronounced on conclusion of Virtual Hearing in the presence of both the parties on 27th December, 2021.

sd/-

(G. S. PANNU)
PRESIDENT
27/12/2021

sd/-

(C. N. PRASAD)
JUDICIAL MEMBER

R. N

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI