

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI**

**BEFORE DR. BRR KUMAR, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 1164/Del/2019
Asstt. Year: 2013-14

Saari Agro Farming Pvt. Ltd., Plot No. 55, Industrial Area, D-28, Patparganj, New Delhi – 110 092 PAN- AAMCS2464H	Vs.	ITO, Ward-22(1) New Delhi.
(Appellant)		(Respondent)

Assessee by:	Shri Piyush Koushik, Advocate
Department by :	Shri Umesh Takyar, Sr. DR
Date of Hearing	09/02/2022
Date of pronouncement	17/02/2022

ORDER

PER ASTHA CHANDRA, JM

This appeal is filed by the assessee against the order of the Ld. Commissioner of Income Tax- 31 (“**CIT(A)**”), New Delhi dated 27.8.2018 pertaining to assessment year (“**AY**”) 2013-14.

2. The assessee is a company deriving income from consultancy services. It filed its return of income on 25.8.2014 declaring income of

Rs. 2,070/-. The case was selected for scrutiny under CASS. The Assessing Officer (“**AO**”) issued statutory notices along with questionnaire during the course of assessment proceedings. According to the Ld. AO, the assessee attended the proceedings from time to time and filed the details. The assessee produced books of account before the Ld. AO which he examined on test check basis.

3. The Ld. AO noticed from the balance sheet as on 31.3.2013 filed along with the return of income that the assessee had shown NIL bank balance. On query the assessee submitted before him that it had no bank account during the financial year 2012-13. The Ld. AO confronted the assessee with information he had that the assessee had been maintaining a bank account in Corporation Bank, Model Town, Delhi and that the bank statement obtained by him from the bank revealed that the assessee had credit in its account to the tune of Rs. 4,82,69,730/- and balance at the end of financial year 2012-13 was Rs. 459/-.

4. During the assessment proceedings, Ld. AR of the assessee submitted vide letter dated 14.3.2016 that *“I had taken data from the balance sheet where no bank account shown in the balance sheet. The assessee did not clarify whether he is having bank account or not. The*

auditor did not detect the same.” The reply of the assessee was not acceptable to the Ld. AO. Since the transaction recorded in the bank statement had not passed through the books of account of the assessee and no explanation about source and nature of transaction was offered, the Ld. AO added the credit amount in the said bank account amounting to Rs. 4,82,69,730/- as deemed income of the assessee.

5. On appeal by the assessee, the Ld. CIT(A) confirmed the addition due to alleged non-appearance of the assessee before him. This has brought the assessee before us challenging the order of the Ld. CIT(A) on the following grounds :-

- “1. *That on the facts in the circumstances of case, action of Ld. CIT(A) in passing the impugned order without providing the opportunity of being heard and without serving the notice of hearing as per law.*
2. *That on the facts in the circumstances of case, no notice of hearing has ever been received / served upon the assessee and thus the impugned order passed by Ld. CIT(A) is in violation of principles of natural justice.”*

6. We have heard the Ld. Representatives of the parties and perused the material on record. We are of the opinion that the matter deserves to be remanded back to the Ld. AO. The Ld. DR had no objection.

7. It is observed from the statement of facts filed by the assessee before the Ld. CIT(A) that the assessee company had a bank account which was not mentioned in the balance sheet. The assessee's grievance before the Ld. CIT(A) was that the entire credit in that account even after explaining the transactions has been added to the income of the assessee. It has been submitted by the Ld. AR that the explanation offered by the assessee has not been duly considered by the Ld. AO. Ld. CIT(A) has also passed ex-parte order in violation of principles of natural justice as no notice of hearing was served upon the assessee. Explanation, if any, in respect of the transactions recorded in the said bank account given by the assessee before the Ld. AO / CIT(A) is not forthcoming from the records. In such a scenario, it would be just and fair if the matter is remanded to the Ld. AO for fresh adjudication. Since the assessee has accepted that it had a bank account which was not mentioned in the balance sheet, let the Ld. AO scrutinise thoroughly the entire transactions recorded therein and

arrive at a correct and lawful conclusion after affording reasonable opportunity of being heard to the assessee. We order accordingly.

8. In the result, the appeal is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 17th February, 2022.

sd/-

**(DR. BRR KUMAR)
ACCOUNTANT MEMBER**

sd/-

**(ASTHA CHANDRA)
JUDICIAL MEMEBR**

Dated: 17/02/2022

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Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi