

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “A” DELHI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER  
&  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.6164/DEL/2017  
Assessment Year 2013-14

|  |    |                             |
|--|----|-----------------------------|
| Shri Amit Tyagi,<br>S/o Shri Kacheru Ram,<br>Village Maidavas Bashahpur,<br>Gurgaon. | v. | ITO, Ward-1(1),<br>Gurgaon. |
| TAN/PAN: ADNPT3665N  |    |                             |
| (Appellant)  |    | (Respondent)                |

|                        |                           |    |      |
|------------------------|---------------------------|----|------|
| Appellant by:          | None                      |    |      |
| Respondent by:         | Mrs. Suman Malik, Sr.D.R. |    |      |
| Date of hearing:       | 28                        | 03 | 2022 |
| Date of pronouncement: | 04                        | 04 | 2022 |

**ORDER**

**PER PRADIP KUMAR KEDIA, A.M.:**

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals)-I, Gurgaon [‘CIT(A)’ in short], dated 28.07.2017 arising from the order of the Assessing Officer dated 22.03.2016 passed under Section 144 of the Income Tax Act, 1961 (the Act) concerning AY 2013-14.

2. The grounds of appeal raised by the Revenue read as under:

*“1. The order passed was bad in law against the facts of the .....*

*2. That having regard to the facts and circumstances of the case, Ld. CIT [A] has erred, in law and on facts in sustaining framed impugned order u/s.144 of the income tax act, 1961, therefore, the order be set aside to the file of AO for de novo action.*

3. *That having regard to the facts and circumstances of the case the Ld. CIT[A] has erred in law and on facts to sustain AO order that under which head of income the income has been assessed.*

4. *That having regard to the facts and circumstances of the case, the Ld. CIT[A] has erred in law and on facts in FRAMING THE APPEAL ORDER in violation of principles of natural justice in as much as passing the impugned order by recording incorrect facts and findings, specially when time was sought to file further submissions.*

5. *That in any case and in any view of the matter, impugned addition of Rs.3475553 /- and Rs. 1425000 is bad in law, illegal, unjustified, contrary to facts & law and based on conjectures and surmises and incorrect findings, without giving adequate opportunity and therefore deserves to be quashed.*

6. *The AO and CIT[A] both did not consider the provision of section 24 of the Income Tax act.”*

3. When the matter was called for hearing, none appeared on behalf of the assessee.

4. It is seen from the record that multiple opportunities have been given to the assessee to attend the appellate proceedings on the appointed dates and canvass the stance of the assessee. However, no mitigating circumstances are on record for such continuous disregard to the notices issued for hearing the matter. Repeated adjournments frustrate proper investigation at a belated stage on the issues involved. The inordinate delay caused owing to such adjournments, at times, results in total loss of evidence. In view of such supine and alarming indifference, we are constrained to proceed with the captioned appeal *ex parte* in the absence of the assessee.

5. Ld. DR for the Revenue at the outset pointed out that the assessment was also framed as best judgment assessment under Section 144 of the Act due to failure of the assessee to comply with the requirements of Sections 143(2) and 143(1) of the Act. The Ld. DR next submitted that he relies upon the orders of the CIT(A) and Assessing Officer on merits.

6. We have perused the assessment order and the order of the CIT(A). We have considered the representation made on behalf of the Revenue.

6.1 A perusal of the ground reveals that while Ground No.1 is general as well as incomplete. Ground No.2, Ground No.3 and Ground No.4 are general and vague. It is not known as to how the CIT(A) has committed error in framing the appellate order in violation of principles of natural justice and sustaining the order of the Assessing Officer.

6.2 Grounds No. 1 to 4 are dismissed in the absence of any adverse material pointing out error committed by CIT(A), if any.

7. Ground No.5 concerns addition of Rs.34,75,553/- and Rs.14,25,000/- by the Assessing Officer and sustained by the CIT(A). The CIT(A) has dealt with the issue in following terms.

*“4.4 I have carefully considered the appellant’s submissions. It is a fact on record that as per 26AS, the appellant had received rent from M/s Emaar MGF amounting to Rs. 37,77,754/- during the year. This fact has also been confirmed by M/s Emaar MGF vide its letter dated 09/03/2016. It is also a fact on record that TDS had been deducted on this payment of rent @ 10%. Further, as per the agreement between the appellant and M/s Emaar MGF the said company was liable to pay monthly rent of Rs. 4 lakhs to the*

*appellant. The appellant has not been able to controvert any of the facts pointed out above by the Assessing Officer. The appellant has merely contended that the area of land mentioned by the Assessing Officer pertaining to the rent agreement was not correct. Even if this contention of the appellant is accepted, it does not imply that the amount received by the appellant from M/s Emaar MGF was not on account of rent. The contention of the appellant that the amount received from M/s Emaar MGF was on account of providing the services of bouncers is merely a self serving statement without any supporting evidence. M/s Emaar MGF having confirmed through letter dated 09/03/2016 that the amount paid to appellant was on account of rent, the contention of the appellant to the contrary is not tenable. The addition made by the Assessing Officer is accordingly confirmed. This ground of appeal is dismissed.*

*5.3 I have carefully considered the facts of the case. It is a fact on record that the appellant had deposited Rs. 14.25 lakhs in his bank account. The onus lies on the appellant to explain the sources of cash deposits in the bank account. The appellant had merely contended before the Assessing Officer that the cash deposits was out of cash withdrawn and amount received from various clubs for providing the bouncers services. However, no evidence in this regard was furnished. The appellant has accordingly failed to discharge his onus. The addition made by the Assessing Officer is confirmed. This ground of appeal is dismissed.*

8. On perusal of the order of the CIT(A), it shows that certain rental income to the tune of Rs.37,77,754/- as per AIR information commonly called 26AS statement available to the Department. The CIT(A) took note of the submissions made on behalf of the assessee. In the first appellate proceedings, it was observed by the CIT(A) that the assessee has failed to rebut the evidences available with the department and the contentions of the assessee are contrary to

record. In the absence of any substantiation to the grievances raised, we see no reason to interfere with the finding of the CIT(A).

8.1 An addition of Rs.14.25 lakh towards cash deposits has been found to be sustainable by the CIT(A). As per AIR information, it was found by the Revenue that assessee has deposited Rs.14.25 lakh in his bank account in cash. It was found by the CIT(A) that assessee has failed to discharge the onus of source of cash deposit. In the absence of any explanation offered by the Assessee before the Tribunal, we are unable to find any error in the reasoning given by the CIT(A). Therefore, Ground no.5 of the assessee's appeal is also dismissed on both counts.

9. Ground no.6 challenging the applicability of Section 24 of the Income Tax Act is general in nature. It is nowhere spelt out as to how Section 24 of the Act is not applicable and how the facts perceived by the Revenue are incorrect. In the absence of any documentary evidences available on record to support the claim of assessee, we decline to interfere with the order of the CIT(A).

10. Ground No.6 of the assessee is accordingly dismissed.

11. In the result, the appeal of the assessee is dismissed *ex parte*.

**Order was pronounced in the open Court on 04/04/2022.**

Sd/-  
**[SAKTIJIT DEY]**  
**JUDICIAL MEMBER**

DATED: **04/04/2022**

*Prabhat*

Sd/-  
**[PRADIP KUMAR KEDIA]**  
**ACCOUNTANT MEMBER**