

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI

BEFORE SHRI PRAMOD KUMAR, VP AND SHRI ABY T. VARKEY, JM

आयकर अपील सं/ I.T.A. No.1871/Mum/2022

(निर्धारण वर्ष / Assessment Year: 2016-17)

Nemchand Khetshi Dedhia Row House No. 4, Shree Tilak Complex, Eksar Road, Devki Nagar, Borivli West, Mumbai-400103, Maharashtra, India.	बनाम/ Vs.	CIT(A) Income Tax Department, National Faceless Appeal Centre (NFAC), Delhi.
स्थायी लेखा सं. /जीआइआर सं. /PAN/GIR No. : AACPD3444K		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	None
Revenue by:	Mr. Chetan Kacha (Sr. AR)

सुनवाई की तारीख / Date of Hearing: 01/09/2022

घोषणा की तारीख /Date of Pronouncement: 23/09/2022

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)/ NFAC, Delhi dated 28.06.2022 for the assessment year 2016-17.

2. The grounds of appeal of the revenue reads as under: -

“1. The Ld. CIT(A) passed an order u/s 250 of Income Tax Act, 1961, dated 28.06.2022 having DIN & Order no. ITBA/NFAC/S/250/2022-23/1043629976(1) dismissing the grounds of appeal and thereby dismissing the Appeal without considering the submissions made by the appellant.

2. The Ld. CIT(A) erred in dismissing the grounds of appeal and thereby dismissing the appeal against the order passed by the Ld. AO (i.e. Ld. CIT(A) confirmed the order passed by the Ld. AO) u/s 143(3) dated 22.12.2018, wherein he has (i) made an addition of Rs.34,00,000/- u/s 68 of Income Tax Act, 1961 on account of the cash



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deposits (made into bank account out of earlier cash withdrawals and cash on hand) being treated by him as “unexplained cash credits” to the said bank account, and (ii) raising demand u/s 156 of the Income Tax Act, 1961 of Rs.7,26,312/- including additional interest charged u/s 234B.”

3. None appeared on behalf of the assessee despite notice. However, we note that the main grievance of the assessee is against the action of the Ld. CIT(A) in passing the impugned order without taking into consideration, the assessee’s plea before him to allow personal hearing since certain factual aspects needs to be pointed out for effective adjudication of the grounds appeal regarding addition resorted to by the AO. We note that the assessee had filed the reply to the Ld. CIT(A)/NFAC that his CA Mr. Ashok Manilal Solanki would plead and represent the case and has filed paper book consisting of seventy five (75) pages and further pleaded that the paper book contains relevant material and which has not been considered by the AO while making the addition/drawing adverse inference against the assessee. We note that in his reply to the Ld. CIT(A)/NFAC the assessee pleaded for personal hearing which was not heeded upon by Ld. CIT(A)/NFAC. We are of the considered opinion that when the assessee has requested for person hearing the NFAC ought to have granted the request of assessee. Failure to do so resulted in the violation of natural justice. And therefore, we set aside the impugned order of the Ld. CIT(A)/NFAC and restore the matter back to the



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CIT(A)/NFAC and direct the Ld. CIT(A)/NFAC disposed of the appeal afresh after giving personal hearing to the AR of the assessee

4. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 23/09/2022.

Sd/-

(PRAMOD KUMAR)
VICE PRESIDENT

Sd/-

(ABY T. VARKEY)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 23/09/2022.
Vijay Pal Singh, (Sr. PS)

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

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

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai