

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F': NEW DELHI**

**BEFORE,
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.5033/Del/2019
(ASSESSMENT YEAR 2012-13)**

Vijay Israni S-12, Green Park Main New Delhi-110 016 PAN-AABPI 1192E	Vs.	Asst. CIT Circle-32(1), New Delhi
(Appellant)		(Respondent)

Appellant by	Mr. Shivkumar T M, Advocate
Respondent by	Mr. Bhopal Singh, Senior Departmental Representative ("Sr. DR" for short)

ORDER

PER ANADEE NATH MISSHRA, AM:

(A) This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-31, New Delhi ["Ld. CIT(A)", for short], dated 25/03/2019 for Assessment Year 2012-13.

Grounds taken in this appeal are as under:

"1 That the Ld. CIT(A) on the facts and circumstances of the case has erred in making addition of Rs.64,72,009/- disallowing the genuine interest expenses u/s 40(a)(ia) of the Income Tax Act, 1961, ignoring the provisions of section 201(1) of the Income Tax Act, 1961.

2. *That the Ld. CIT(A) has erred in making adding Rs.33,30,316/- as cash payment in contravention of section 40A(3) of the I.T. Act, 1961.*
3. *That the Ld. CIT(A) has erred in making adding Rs.7,36,685/- as cash deposit in bank from unknown sources in contravention of section 68 of the I.T. Act, 1961.*
4. *That the Ld. CIT(A) has erred in making adding Rs.2,28,742/- as incorrect/fake ledger account of Salary & wages in contravention of section 69 of the I.T. Act, 1961.*
5. *That the Ld. CIT(A) while making addition has erred in ignoring the documentary evidences submitted by the appellant.*
6. *That the Ld. CIT(A) did not give proper opportunity of being heard therefore violated the cardinal principle of natural justice.”*

(A.1) In this case, assessment order dated 27/03/2015 was passed by the Assessing Officer (“AO” for short) u/s 143(3) of Income Tax Act (“IT Act” for short) wherein the assessee’s total income was assessed at Rs.2,67,62,911/- (rounded off to Rs.2,67,62,910/-) as against returned income of Rs.1,73,61,400/-.

(A.2) Aggrieved, the assessee filed appeal in the office of the Ld. CIT(A). Vide impugned appellate order dated 25/03/2019, the Ld. CIT(A) dismissed the assessee’s appeal. The aforesaid order dated 25/03/2019 of the Ld. CIT(A) was passed *ex-parte* qua the

appellant assessee. The present appeal before us has been filed by the assessee against the impugned appellate order dated 25/03/2019 of the Ld. CIT(A).

(A.2.1) At the time of hearing before us, the representatives of both sides, the learned Senior Departmental Representatives (“Ld. Sr. DR” for short) for Revenue as well as the learned Counsel for the assessee submitted before us that the assessee deserved another opportunity before the Ld. CIT(A) for proceeding his case. Both were in agreement, accordingly, that the impugned appellate order dated 25/03/2019 of the Ld. CIT(A) should be set aside and all the issues in dispute in the appeal should be restored to the file of the Ld. CIT(A) with the direction to pass a fresh appellate order in accordance with law after providing reasonable opportunity to the assessee. In view of the foregoing; and as representatives of both sides are in agreement with this; and further, in the specific facts and circumstances of the present appeal before us; we set aside the impugned appellate order dated 25/03/2019 of the Ld. CIT(A) and restore all the issues in dispute in the present appeal before us, to the file of the Ld. CIT(A) with the direction to pass a denovo

appellate order in accordance with law after providing reasonable opportunity to the assessee. All the grounds of appeal in the present appeal before us are treated as disposed off in accordance with the aforesaid directions.

(B) For statistical purposes, the appeal is treated as partly allowed.

This order was already pronounced orally on 3rd November, 2022 in Open Court, in the presence of representatives of both sides, after conclusion of the hearing. Now this order in writing is signed today on 03/11/2022.

Sd/-
(CHALLA NAGENDRA PRASAD)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 03/11/2022

Pk

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW, DELHI