

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

**BEFORE SH. N.K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. KUL BHARAT, JUDICIAL MEMBER**

ITA No.333/Del/2022
Assessment Year: 2017-18

Manoj Kumar VPO Tiranga, District Bhiwani, Delhi Delhi-127031 PAN No.BEBPK6820G	Vs	ITO Ward-1 Haryana
(APPELLANT)		(RESPONDENT)

Appellant	Sh. Manu K. Giri, Advocate Sh. Vinayak Makkar, CA
Respondent	Sh. Jeetender Chand, Sr. DR

Date of hearing:	03/11/2022
Date of Pronouncement:	03/11/2022

ORDER

PER N.K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order dated 22.12.2021 by NFAC, Delhi for A.Y. 2017-18.

2. The grievance of the assessee read as under :-

1. That the Assessment Order under section 144 dated 31/12/2019 is bad in law, void ab-initio and is liable to be set aside as neither notice under section 143(2) was issued nor served on the assessee.
2. That the learned Commissioner of Income Tax (Appeals) erred in upholding assessment u/s 144 without giving proper opportunity to the appellant and issued the impugned order dated 22.12.2021 in due haste and without considering the facts and material/evidences placed before him and without affording reasonable time in violation of the principal of natural justice.
3. That the Learned Commissioner of Income Tax (Appeals) erred in confirming the addition of Rs.50,63,000/- being 100% on total cash credit of Rs.50,63,000/- without any cogent explanation and dehors the facts of this present case.
4. That the Assessing Officer as well as learned Commissioner of Income Tax (Appeals) erred in not considering the income tax Return filed by the Appellant on 12.12.2019 vide acknowledgement number 271003451121219 in response to the notice under section 142(1) during the respective proceedings before them.
5. That the appellant craves leave to add or amend any ground of appeal at the time of hearing the appeal.

3. At the very outset referring to grounds No.1 and 2 the Counsel stated that both the authorities have framed exparte order without affording reasonable and sufficient opportunity of being heard to the assessee and the assessee was deprived of opportunities to defend his case.

4. It was prayed that the matter may be restored back to the files of the AO so that the assessee can furnish necessary explanations/ evidences in support of his case.

5. The DR did not raise any objection for restoring the appeal to the files of the AO.

6. We have carefully perused the orders of the authorities below. It is a fact that the assessment order dated 31.12.2019 is framed u/s. 144 of the Act exparte. We also find that the order by NFAC is also exparte. In the interest of justice and fair play we deem it fit to restore the impugned quarrel to the files of the AO. The AO is directed to decide the issue afresh after affording a reasonable and sufficient/ adequate opportunity of being heard to the assessee and the assessee is directed to avail such opportunity and file necessary evidences.

7. In the result, the appeal of the assessee is allowed for statistical purpose.

8. Decision announced in the open court on 03.11.2022.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

NEHA, Sr. Private Secretary

Date:-03.11.2022

Copy forwarded to:

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

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI