

**IN THE INCOME TAX APPELLATE TRIBUNAL  
[ DELHI BENCH: 'B' NEW DELHI ]**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**I.T.A. No. 971/DEL/2020 (A.Y. 2011-12)**

M/s. Eland International Pvt. Ltd., 18, Navnith Apartment Plot No. 51, Patparganj, New Delhi – 110 092.  <b>PAN No. AAACE2823L</b> <b>( APPELLANT )</b>	Vs.	ACIT,  Circle : 8 (1)  New Delhi.  <b>( RESPONDENT )</b>
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<b>Assessee by :</b>	<b>Shri Gopal K. Sinha, Advocate; Shri Rahul Kumar, Adv.; &amp; Ms. A. S. Prasad, Advocate</b>
<b>Department by:</b>	<b>Shri T. James Singson, [CIT] - D. R.;</b>

<b>Date of Hearing</b>	<b>08.02.2023</b>
<b>Date of Pronouncement</b>	<b>10 .02.2023</b>

**ORDER**

**PER YOGESH KUMAR U.S, JM**

This appeal is filed by the assessee against the order dated 24.02.2020 of the Id. Commissioner of Income Tax (Appeals)-3 (hereinafter referred to CIT (Appeals) New Delhi, for assessment year 2011-12.

2. The assessee has raised the following substantive grounds of appeal :-

*“1. That the order of the Learned ACIT, Circle-8(1), New Delhi u/s. 250 is unsustainable on facts and in law, As ex parte order has been passed.*

*2. That the Learned ACIT, Circle-8(1), New Delhi has erred in validating action of assessing officer which was not justified to initiate the proceedings u/s 148. The Ld. Assessing Officer without consideration to the objections for reopening, issued notice dated 08.10.2018 without passing an order as required by law and ignored that the appellant has filed and disclosed all the true and correct source of income and hence no income has been escaped or been concealed in the return filed.*

*3. That the Learned ACIT, Circle-8(1), New Delhi has erred in Law and on facts in confirming the AO Who merely on surmise and conjectures made additions u/s. 68 and u/s. 69A of the Income Tax Act, 1961, on account of unaccounted and unexplained money Rs.11,16,52,500/- and protective addition of Rs.12,55,62,748/- based on unreliable and unverified Xerox copy of evidence provided in complain received through TE Phence such demand may be deleted.*

*4. That the Learned ACIT, Circle-8(1), New Delhi has erred in Law and on facts in confirming the AO Order, having recorded the statement of the seller and the buyer failed to get the statement of the seller and the buyer failed to get the statement of the complainant was not even present at the address given. Thus the order being passed entirely on presumption. “*

3. Brief facts of the case are that, the case of the assessee was reopened u/s 148 of the Income Tax Act 1961 ('Act' for short) on the basis of the information that the total sale consideration of the sale of immovable property was Rs. 17,38,75,000/- out of which Rs. 11,38,75,000/- was paid by cash and Rs. 6 crore paid through cheques. The assessment order came to be passed on 31/12/2018 by making an addition of Rs.11,16,52,500/- as unaccounted /unexplained money and passed the assessment order on 31/12/2018.

4. Aggrieved by the assessment order dated 31/12/2018, the assessee has preferred an appeal before the CIT(A). The Ld.CIT(A) has confirmed the addition made by the Ld. A.O. by passing ex-parte order on 18/01/2019.

5. Aggrieved by the order dated 18/01/2019, the assessee has preferred the present appeal on the grounds mentioned above.

6. The Ld. Counsel for the assessee submitted that the assessee Director of the assessee Mr. Arvind Kumar Bhatnagar had heart complications which he suffered after a myocardial infections and he has been advised to take rest for six months and not to travel by air. The Doctor certificate issued by the Specialist Physician Ghana, West Africa dated 13/02/2020 is produced in the paper book at page No. 111 and submitted that due to ill health, the assessee could not participate the proceedings before the Ld.CIT(A) and sought for an opportunity to prosecute his case before the Ld.CIT(A) and sought for remaining the matter for de-novo consideration to Ld.CIT(A).

7. Per contra, the Ld. DR vehemently contended that the assessee has been given sufficient opportunity and the order has been passed on merit, by relying on the order of the Lower Authorities sought for dismissal of the appeal.

8. We have heard the parties, perused the material available on record and gave our thoughtful consideration. It is not in dispute that the assessee has not participated during the appellate proceedings before the Ld.CIT(A) but the Ld.CIT(A) has dismissed the appeal. It is the specific case of the assessee that the Director of the assessee had taken treatment for his ailment in abroad and could not participate in the appellate proceedings before the Ld.CIT(A). Considering the above facts and circumstances, we are of the opinion that if an opportunity is given to the assessee to put forth the case before the CIT(A) by directing the Ld.CIT(A) for de-novo adjudication, the substantial justice will be rendered in such event the Department will not be prejudiced. Accordingly, we remand the matter to the file of Ld.CIT(A) with a direction to decide the appeal on merit after providing opportunity of being heard to the assessee. Thus, the Ground No. 1 of the assessee is allowed for statistical purpose.

9. Since, we have remanded the matter to the file of Ld.CIT(A) for de-novo consideration to decide on merit, the Ground No. 2 to 5 are not been adjudicated.

10. In the result, the appeal of the assessee is partly allowed for statistical

Order pronounced in the open court on : **10/02/2023**.

**Sd/-**  
**( ANIL CHATURVEDI )**  
**ACCOUNTANT MEMBER**  
Dated : 10/02/2023

**Sd/-**  
**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

*\*MEHTA/R.N, Sr. PS\**

Copy forwarded to :-

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI