

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC" DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A No.227/DEL/2023
Assessment Year 2012-13

Baldev Kumar H. No.248 Ward-6, NR Halwai Hatta, Panipat, Haryana.	v.	ITO, Ward-3, Panipat.
TAN/PAN: ANWPK9582E		
(Appellant)		(Respondent)

Appellant by:	Shri Jai Bhagwan Sharma, Adv.		
Respondent by:	Shri Om Parkash, Sr.DR		
Date of hearing:	17	04	2023
Date of pronouncement:	17	04	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the Assessee against the order of the Commissioner of Income Tax (Appeals), NFAC, Delhi ('CIT(A)' in short) dated 19.10.2022 arising from the assessment order dated 02.12.2019 passed by the Assessing Officer (AO) under Section 144 r.w. Section 147 of the Income Tax Act, 1961 (the Act) concerning AY 2012-13.

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

"1 That on the facts and circumstances of the case, the Id. CIT (A), NFAC, Delhi has erred in dismissing the appeal of the appellant without proper opportunity of being heard.

2) That on the facts and circumstances of the case, the Id. A.O. has erred in law in not following the procedure under law under sec147 to 151 of IT Act, 1961.

3 That on facts and circumstances of the case, both the lower authorities have erred in making / confirming addition of Rs. 19,49,550/- in the income of appellant on account of cash deposited into bank of Rs. 19,49,550/- from the sales proceeds of business.

4) That the appellant hereby requests to accept the appeal, quash the orders of the lower authorities and oblige.

5) That the appellant craves to add, amend, forego, delete, vary any of the grounds of appeal before final hearing of the appeal.”

3. When the matter was called for hearing, the Id. counsel for the assessee adverted to additional evidence filed under Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963 and requested for admission thereof for adjudication purposes. The Id. counsel for the assessee further pointed out that in the present case, the matter could not be attended both before the Assessing Officer as well as the CIT(A) for the reason that the assessee did not receive the notice from the Department in person. The notice was probably served on the counsel of the assessee who did not inform the assessee which prevented the assessee from necessary compliances. An affidavit dated 7th March, 2023 was filed to this effect in support of the assertions made.

4. On perusal of the assessment order, it appears that the assessee has deposited cash amount to Rs.19,49,553/- in the savings bank account in Financial Year 2011-12 relevant to Assessment Year 2012-13 in question. The Assessing Officer attempted to make inquiry on the source of such cash deposits

but however the matter was proceeded *ex-parte* in the absence of compliances.

5. In the light of the assertions made towards non compliance before Assessing Officer and CIT(A), we consider it expedient to restore the matter back to the file of the Assessing Officer to take the case to the logical conclusion. It will conduce to effective administration of justice where one more opportunity is given to Assessee to demonstrate *bona fide* of its case. The assessee is however cautioned to diligently attend the assessment proceedings and fully co-operate with the Revenue Authorities in the matter without any demur.

6. We thus set aside the order of the CIT(A) and restore the matter back to the file of the Assessing Officer. It shall be open to the Assessing Officer to make such inquiry as he may consider it expedient and pass an assessment order afresh in accordance with law.

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

Order pronounced in the open Court on 17/04/2023.

Sd/-

**[KUL BHARAT]
JUDICIAL MEMBER**

DATED: 17/04/2023

Prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**