

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No.2533/Del/2022
Assessment Year: 2017-18

Solitaire World Pvt. Ltd. Shop No.403, 4th Floor, 2633-2634, Bank Street, Karol Bagh, New Delhi -110005 PAN No.AAOCS1369R	Vs	ACIT Circle-28 Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Nirbhay Mehta, CA
Respondent by	Ms. Yamini Goutam, Sr DR

Date of hearing:	11/05/2023
Date of Pronouncement:	11/05/2023

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-29, New Delhi dated 21.03.2022 pertaining to A.Y.2017-18.

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

“1. That on the facts and circumstances of the case and in law, the order passed by CIT(A) was not justified in passing the ex-parte order upholding the addition of Rs 8,37,80,273/- made in the assessment order as the notices for hearing mentioned in para 6 of appellate order were never received by the appellant.

2. *That on the facts and circumstances of the case and in law, the order passed by CIT(A) is contrary to facts and bad in law.*

3. *That on the facts and circumstances of the case and in law the CIT(A) was not justified in upholding the addition of Rs 6,00,00,000/- by treating cash sales as unexplained cash credit u/s 68 of Income Tax Act.*

4. *That on the facts and circumstances of the case and in law the CIT(A) was not justified in upholding the action of Assessing Officer in rejecting the books of the accounts of the appellate u/s 145(3) of Income Tax Act without providing any specific defects in the books of accounts.*

5. *That on the facts and circumstances of the case and in law the CIT(A) was not justified in upholding the addition of Rs.2,37,80,273/- (Rs.2,41,47,769/- (68,99,36,269 multiply 3.5 per cent) minus 3,67,496/- by applying GP rate of 3.5 percent on Rs.68,99,36,269/- (75,77,85,080 minus 6,78,48,811/-) being turnover after reducing the cash sales made during the year on account of estimated gross profit by summarily rejecting books of accounts.*

6. *That the appellant craves leave to add, alter and modify any of the grounds during the course of appellate proceedings.”*

3. At the very outset the Counsel for the assessee stated that the assessee never received any notices of hearing issued by the CIT(A) and, therefore, could not attend the appellate proceedings to support the case. In support of his submission the Counsel submitted the affidavit of Ashok Goyal being director of the assessee company.

4. Per contra the DR stated that the CIT(A) has given several opportunities to the assessee and it was the assessee who chose not to attend the appellate proceedings.

5. We have given a careful consideration to the order of the CIT(A). At para-6 of his order the CIT(A) has mentioned the date of notices issued. However, it is not coming out from the chart whether the notices actually served upon the assessee or not. The affidavit of the director of the assessee cannot be brushed aside lightly.

6. In the interest of justice and fair play we deem it fit to restore the issues to the files of the CIT(A). The CIT(A) is directed to decide the appeal afresh after serving notices and affording a reasonable and adequate opportunity of being heard to the assessee. The assessee is directed to attend the appellate proceedings and furnish necessary details.

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

8. Decision announced in the open court on 11.05.2023.

Sd/-
[ASTHA CHANDRA]
JUDICIAL MEMBER

Sd/-
[N.K. BILLAIYA]
ACCOUNTANT MEMBER