

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “SMC” BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &
DR. B.R.R.KUMAR, ACCOUNTANT MEMBER**

**ITA No.1467/Del/2023
[Assessment Year : 2016-17]**

Sudhir Kumar Goyal, M/s. Duli Chand Salek Chand, New Mandi, Shamli, Uttar Pradesh-247776. PAN-AGNPG1585D	vs	ITO, Ward-1(5), Shamli.
APPELLANT		RESPONDENT
Appellant by	Shri Vibhu Gupta, Adv.	
Respondent by	Shri Om Parkash, Sr.DR	
Date of Hearing	15.06.2023	
Date of Pronouncement	21.06.2023	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2016-17 is directed against the order of Ld. CIT(A), National faceless Appeal Centre (“NFAC”), Delhi dated 13.03.2023.

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

1. *“That the Commissioner of Income-tax (Appeals) [‘CIT(A)'] erred on facts and in law in passing the ex-parte order dated 13.03.2023 confirming the addition of Rs.26,69,000/- made by the assessing officer under section 69 of the Act of the Income-tax Act, 1961 (‘the Act’).*
- 1.1 *That the CIT(A) erred on facts and in law in passing the impugned order in undue haste in gross violation of the principles of natural justice and without judiciously considering/ adjudicating the grounds raised by the appellant.*

1.2 *That the CIT(A) erred on facts and in law in dismissing, ex-parte, the appeal of the appellant without proper/ effective service of notice of hearing on the appellant, and proceeding on presumed service by purportedly sending the notice through email.*

Without Prejudice

2. *That the CIT(A) erred on facts and in law in confirming the addition of Rs.26,69,000/- made by the assessing officer under Section 69 of the Act on the alleged ground that the same amount represented unexplained investment made by the assessee.*
 3. *That on the facts and in the circumstances of the case and in law, the CIT(A)/AO erred in making the impugned addition merely on the basis of assumptions and conjectures and completely ignoring the robust documentary evidences filed by the appellant to substantiate its investment.*
 4. *That on the facts and circumstances of the case and in law, the CIT(A)/AO erred in not appreciating that the appellant had produced detailed documentary evidences to substantiate the source of funds invested.*
 5. *That the CIT(A)/AO has erred on facts and in law in making an addition of Rs 26,69,000/- in the hands of the appellant without appreciating that the investment made in the derivative business was made by the appellant in the capacity of Karta of his HUF.*
 6. *That the assessing officer erred on facts and in law in charging interest under section 234B/234D of the Act.*
 7. *The appellant craves leave to add, alter, amend or vary from the aforesaid grounds of appeal at or before the time of hearing.”*
3. *Apropos to grounds of appeal, Ld. Counsel for the assessee submitted that the impugned order has been passed without giving adequate opportunity to the assessee for making representation and explanation by the assessee.*

4. On the other hand, Ld. Sr. DR opposed the submissions and supported the orders of the authorities below.

5. We have heard Ld. Authorized Representatives of the parties and perused the material available on record. We find that Ld.CIT(A) decided the issue without considering the explanation offered by the assessee. Further, by way of statement of facts and grounds of appeal, the assessee had offered explanation regarding source of cash deposited in bank account hence, to sub-serve the principle of natural justice, atleast the assessee should get opportunity to represent its case before the appellate authority. We, hereby, set aside the impugned order and restore the issue to the file of Ld.CIT(A) to decide the grounds of appeal raised before him afresh after giving opportunity of being heard to the assessee. The assessee is hereby, directed to cooperate in the assessment proceedings and not to seek any adjournment without any reasonable cause.

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

Order pronounced in the open Court on 21st June, 2023.

Sd/-

**(DR.B.R.R.KUMAR)
ACCOUNTANT MEMBER**

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

** Amit Kumar **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI