

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

**ITA No.1323/Del/2023
[Assessment Year : 2012-13]**

Hrish Chandra Pant, C/o-ANubhav Talwar, D-104, Ajay Enclave, New Delhi-110018 PAN-AECCO05229A	vs	ITO, Ward-69(5), Delhi.
APPELLANT		RESPONDENT
Appellant by	Shri Anubhav Talwar, Adv.	
Respondent by	Shri Om Parkash, Sr.DR	
Date of Hearing	13.06.2023	
Date of Pronouncement	21.06.2023	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2012-13 is directed against the order of Ld. CIT(A), National faceless Appeal Centre (“NFAC”), Delhi dated 02.03.2023.

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

1. *“For that the order of the ITO, Ward- 69(5), Delhi is arbitrary, illegal and bad in law.*
2. *The order passed is bad in law because proper facts did not get taken into consideration. The Purchase Consideration was paid over a period of six years through savings and loans. And the property was purchased jointly with the son, as evidenced by the Purchase Deed, which was available with the Assessing Officer.*
3. *The Appellant contends that the Assessing Officer erred in passing the impugned order ex-parte without properly serving relevant notices for hearing and providing a reasonable opportunity to be heard.*

4. *The Assessing Officer did not have any credible information or evidence to believe that the property was purchased with undisclosed income. Based solely on AIR information that the property had been purchased, the entire consideration paid for the purchase of the property was treated as equivalent to income escaping assessment, without any relevant material to form a reason to believe.*
5. *The Appellant requests that the addition made in the impugned Best Judgement Assessment on account of Property Purchase and tax thereon, the consequential penalty proceedings u/s 271(1)(b), 271(1)(c) & 271F of the IT Act, the interest applied u/s 234A, 234B & 234C, and the freeze on the Appellant's bank account be quashed/set aside as they are against the principles of natural justice.*
6. *The Appellant craves leave to add/ alter/ amend/ withdraw any or all grounds of appeal before or at the time appeal proceedings.”*

3. Facts giving rise to the present appeal are that in this case, the Assessing Officer (“AO”) recorded that the assessee did not file his return of income for the assessment year under consideration. It was noticed by the AO from AIR information that the assessee had purchased immovable property valuing at Rs. 37,72,000/-. It was further noticed by the AO that the assessee had received salary as an employee of Sarvodaya Vidyalaya No.03 School. The case of the assessee was re-opened for assessment and the assessment was framed u/s 147 r.w.s. 144 of the Income Tax Act, 1961 (“the Act”) vide order dated 10.12.2019. Thereby, the AO made addition of both the amount related to purchase of immovable property and undisclosed salary. Thus, he assessed the income of the assessee at Rs.24,12,480/-.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, dismissed the appeal of the assessee and sustained the addition.

5. Aggrieved against the order of Ld.CIT(A), the assessee preferred appeal before this Tribunal.

6. Apropos to Grounds of appeal, Ld. Counsel for the assessee at the outset submitted that the notice of re-opening of assessment and other statutory notices were not received. Further, the authorities below made assessment at the back of the assessee which is not justified and against the principles of natural justice. He submitted that there was not effective representation on behalf of the assessee even before the Ld.CIT(A). He prayed that in the principle of natural justice, the assessee may be granted opportunity to present its case before the lower authorities.

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

8. I have heard Ld. Authorized Representatives of the parties and perused the material available on record. I find that there was no effective representation on behalf of the assessee before the lower authorities. The assessee even before Ld.CIT(A) had stated that in the principle of natural justice, he may be given opportunity to represent his case. The relevant findings of Ld.CIT(A) is reproduced as under:-

4.3. "During the appellate proceedings, the appellant has only submitted submissions in the form of 'Statement of Facts'. After that neither he has replied to hearing notices nor submitted any documentary evidence/information to prove his side. Sufficient and adequate opportunities were afforded to the appellant as indicated at page no.1, para 3. No reply whatsoever has been submitted by the appellant. Even the

assessment was completed under section 147 r.w.s. 144 of the Income Tax Act, 1961 due to non-compliance on the part of the appellant. It can be safely presumed that the appellant is not interested in pursuing his appeal. Therefore, the undersigned sees no reason to interfere with the order of the Assessing Officer. Thus, the appeal raised by the appellant is dismissed.”

9. From the above finding, it is clear that the appeal was dismissed by Ld.CIT(A) purely on the basis that no one had attended the proceedings on behalf of the assessee. However, no finding is given on merit. Hence, looking to the totality of the facts and to sub-serve the principle of natural justice, I hereby set aside the matter and restore the finding of the assessing authority to frame the assessment afresh. Thus, Grounds raised by the assessee are allowed for statistical purposes.

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

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

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