

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

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**I.T.A. No. 2319/DEL/2022 (A.Y. 2016-17)**

RKM Online Services Pvt. Ltd. C 1/8, DLF, Phase-1, Gurgaon, Haryana <b>PAN: AAGCR8491R</b> <b>( APPELLANT )</b>	Vs.	ITO Ward 3(5), HSI IDC Building Vanijya Nikunj, Udhyog Vihar Phase-5, Gurgaon, Haryana <b>( RESPONDENT )</b>
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<b>Assessee by :</b>	<b>None</b>
<b>Department by:</b>	<b>Ms. Beenu, Sr. DR</b>

<b>Date of Hearing</b>	<b>20.06.2023</b>
<b>Date of Pronouncement</b>	<b>23.06.2023</b>

**ORDER**

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

The present appeal has been filed by the assessee against the order dated 12/07/2022 passed by the National Faceless Appeal Centre ('NFAC' for short) Delhi, for assessment year 2016-17.

2. The grounds of Appeal are as under:-

*“1. BECAUSE, the Ld. Commissioner of Income Tax (Appeals) erred in law and on facts in refusing to entertain the appeal of the assessee and rejecting the same on the ground that the assessee is not serious in prosecuting the appeal, which is impermissible in law and it is settled that in any view of the matter, the Ld. CIT(A) is bound under law to adjudicate the appeal on its merits, on the basis of material available on record or Law.*

*2. BECAUSE, the Ld. Commissioner of Income Tax (Appeals) erred in law as well as on facts in failing to appreciate that the impugned Order of Assessment is non-est in Law as the same has been passed without the issuance and service of jurisdictional notice under Section 148 of the Act at any time over the assessee. The Assessment has been made without any Service of Notice under Section 148 of the Act and hence the proceedings are illegal and bad in law.*

*3. Because without considering the facts and in the circumstances of the case, the Ld. CIT(A) has erred in law and in facts in treating the premium received by the company in contravention of section 56.*

*4. That in any case and in any view of the matter, impugned addition/allowance assessment order are bad in law, illegal, unjustified, contrary to facts & law and based upon recording of incorrect facts and finding, without giving adequate opportunity of hearing, in violation of principles of natural justice and the same deserves to be quashed.*

*5. The humble assessee, craves for leave to add/amend any other ground with the prior permission of the Hon'ble Tribunal.”*

3. Brief facts of the case are that, the assessment order came to be passed u/s 143(3) of Income Tax, 1961 ('Act' for short) against the assessee by making an addition of Rs. 1,49,81,940/- on 13/11/2018 as against the assessment order, the assessee preferred an appeal before the CIT(A), the ld. CIT(A) vide order dated 12/07/2022 dismissed the appeal ex-parte. Aggrieved by the order of the CITA(A) dated 12/07/2022, the assessee preferred the present appeal on the grounds mentioned above.

4. None appeared for the assessee even after service of the notice. Considering the above facts and circumstances, we deem it fit to decide the matter on hearing the Ld. Departmental Representative.

5. We have heard the Ld. DR and perused the material. On going through the order of the CIT(A), it is found that the Appeal has been dismissed by the CIT(A) ex-parte without even adjudicating the issues involved in the Appeal on merit. It is well settled law that the authorities cannot dismissed the appeal ex-parte without deciding the issues involved in the Appeal on merit. Therefore, we deem it fit to restore the matter to the file for CIT(A) with a direction to decide the matter on merit after providing opportunity of being heard to the assessee. Accordingly, the Ground No. 1 of th3e Assessee is

Allowed for statistical purpose and the matter is restored to the file of CIT(A) for de-novo adjudication. In the result the Appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the open court on : **23/06/2023.**

**Sd/-  
( SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

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

Dated : 23/06/2023

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

Copy forwarded to :-

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI