

**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.1493/Del/2023
[Assessment Year : 2009-10]**

Om Investments, C/o-Vijay Mudgal, WZ-468E, M.S.Block, Gali No.1, Hari Nagar, NewDelhi-110064. PAN-AABF08695C	vs	ITO, Ward-3, Rohtak.
APPELLANT		RESPONDENT
Appellant by	Shri Naveen Kumar Goyal, CA	
Respondent by	Shri Om Parkash, Sr.DR	
Date of Hearing	19.06.2023	
Date of Pronouncement	23.06.2023	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2009-10 is directed against the order of Ld. CIT(A), National faceless Appeal Centre (“NFAC”), Delhi dated 09.05.2023.

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

1. *“That The order of the Ld. CIT (A) National Faceless Appeal Centre erred in Law and Infact (in upholding the Assessment Order passed U/s 147 by the Ld. A.O. raising Demand Amounting Rs. 22,92,100/- by ITO Ward-3, Rohtak) on wrong and untenable grounds.*
- 2.) *That The order of the Ld. CIT (A) National Faceless Appeal Centre erred in Law and Infact (By not giving reasonable time as per the Principal of Natural Law and Justice to the Appellant for the Disposal of Quantum Addition in the case of the Appellant) on wrong and untenable grounds.*

- 3.) *That The order of the Ld. CIT (A) National Faceless Appeal Centre erred in Law and Infact (by not mentioning the Adjournment Request filed by the Appellant on 09.05.2023 in the order by CIT(A)) on wrong and untenable grounds.*
- 4.) *That The order of the Ld. CIT (A) National Faceless Appeal Centre erred in Law and Infact (by not mentioning the Written Submission filed by the Appellant on 09.05.2023 in the order by CIT(A)) on wrong and untenable grounds.*
- 5) *That The order of the Ld. CIT (A) National Faceless Appeal Centre erred in Law and Infact (by not finding the Non Section of Addition Quoted by ITO Ward-3, Rohtak in his Assessment Order) on wrong and untenable grounds.*
- 6.) *That The order of the Ld. CIT (A) National Faceless Appeal Centre erred in Law and Infact (in making Addition on misuse of client modification amounting Rs. 37,95,450/- and Disallowance of Expenses amounting Rs. 32,986/- of the Appellant) on wrong and untenable grounds.*
- 7.) *The Appellant craves leave to add, amend, alter or forge any Ground of Appeal at the time of its hearing.”*

3. Facts giving rise to the present appeal are that the assessee filed return of income declaring an income of Rs.14,980/- on 26.09.2009. The assessee derived income from arbitrage and jobbing in share & commodity market. The case of the assessee was re-opened on the ground of Client Code Modification (“CCM”). Thereafter, the Assessing Officer (“AO”) after giving requisite statutory notices to the assessee, framed the assessment u/s 143(3)/147 of the Income Tax Act, 1961 (“the Act”) vide order dated 23.12.2016. Thereby, he made

addition of Rs. 37,95,450/- on account of CCM and further disallowed the expenditure on adhoc basis amounting to Rs.32,986/-.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, dismissed the appeal of the assessee on the ground of non-prosecution by the assessee.

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

6. Apropos to grounds of appeal, Ld. Counsel for the assessee vehemently argued that Ld.CIT(A) ought to have considered the facts in right perspective. He further submitted that the issue is squarely covered in favour of the assessee by the decision of the Co-ordinate Bench of the Tribunal.

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

8. We have heard Ld. Authorized Representatives ("AR") of the parties and perused the material available on record. We find that Ld.CIT(A) has dismissed the appeal of the assessee without adjudicating the grounds taken on merit of the case. Therefore, to sub-serve the principle of natural justice, we hereby, set aside the impugned order and restore the matter to the Assessing Authority for deciding it afresh after giving adequate opportunity of being heard to the assessee. Needless to say that assessee would cooperate in the assessment proceedings and not to seek any adjournment without any reasonable cause. Grounds raised by the assessee are thus, allowed for statistical purposes.

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

Order pronounced in the open Court on 23rd 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