

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

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

ITA No. 2160/DEL/2022 [A.Y. 2017-18]

Shri Naveen Tomar
1077, Sector - 47, Gurgaon,
Haryana - 122 018

Vs.

The Income-tax Officer
Ward - 3(1)
Gurgaon

PAN: ASZPT 0872 C

(Applicant)

(Respondent)

Assessee By : Shri Mahavir Singh, Adv.

Department By : Shri M. K. Pandey, Sr. DR

Date of Hearing : 06.07.2023

Date of Pronouncement : 10.07.2023

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order dated 05.08.2022 by the NFAC, Delhi pertaining to Assessment Year 2017-18.

2. Grievances of the assessee read as under:

"1. The Ld CIT(A) has erred in law as well on facts in dismissing the appeal of the assessee.

2. The Ld. CIT(A) has erred in dismissing the appeal of the assessee in limine without adjudicating the grounds of appeal submitted as perform 35 (Swati Pawa vs DCIT ITA No. 3098/Del/2016, Corporate International Financial Services Ltd vs ITO ITA No 2147/Del/2017 Ashish Dham Vs DCIT ITA No. 1953/Del/2016, CIT vs prem Kumar Arjun dass HUF (2016) 240 Taxmann 133)

3. The Ld. CIT(A) has erred in dismissing the appeal of the assessee on ground of non- attendance whereas the counsel of the assessee has requested for adjournment on ground of being busy in filing return of income in last week of July 2022. (Copy of order-sheet available on system is enclosed)

4. The Assessment order passes by the Ld. AO as well as appellate order by the Ld. CIT (A) was without application of mind as huge addition of Rs. 4,05,42,125/- in the case of a small assessee was made without any basis which has been rectified to Rs. 49,72,239/- only by the AO herself while passing order U/s-154.

5. The LD. CIT(A) has erred in showing non-attendance of case long times whereas notice u/s 250 as per record has been issued only thrice and every time it was responded in seeking adjournment on account of non-supply of details by the Ld. A.O. The Ld. AO made an addition of Rs. 4,05,42,125/- without any basis for which we had requested for the details which were not forthcoming. (Copy of order-sheet available on system is enclosed).

6. The Ld. CIT(A) has further erred in not adjudicating various grounds of appeal especially the addition of Rs. 4,05,42,125/- which was made without any evidence on account of credit entries in bank account and the Ld. A.O. has failed to supply the basis of this addition and Ld. CIT(A) was made aware of above facts while seeking adjournment. (Copy of order-sheet available on system is enclosed)

7. The Ld. CIT(A) has further erred in confirming the addition of Rs. 29,33,000/-, 17,84,000/- and 1,41,000/ on account of deposit of cash in the bank accounts maintained by the assessee in regular course of business.

8. The Ld. CIT(A) has passed a non-speaking order and has even confirmed the addition of Rs. 4,05,42,125/- which has been made without any basis and even rectified U/S-154 by the Ld. AO herself."

3. At the very outset, the ld. counsel for the assessee pointed out that for some reasons, the assessment proceedings went unattended and the Assessing Officer framed the order ex parte u/s 144 of the I.T. Act, 1961 and for similar reasons, even the proceedings before the first appellate authority were not attended and NFAC framed the exparte order. The ld. counsel for the assessee prayed for restoration of the appeal to the file of the Assessing Officer.

4. The ld. DR raised no objection.

5. Considering the facts of the case in totality and in the interest of justice and fair play, we restore the issues to the file of the Assessing Officer. The Assessing Officer is directed to decide the issues afresh after affording reasonable and adequate opportunity of being heard to the assessee.

6. In the result, the appeal of the assessee in ITA No. 2160/DEL/2022 is allowed for statistical purposes.

The order is pronounced in the open court on 10.07.2023.

Sd/-

**[ASTHA CHANDRA]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 10th JULY, 2023.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	