

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'G' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

**ITA No.7527/DEL./2017
(ASSESSMENT YEAR : 2013-14)**

Saharan Ashiyana (P) Ltd.,
C/o Kapil Goel, Advocate
F-26/124, Sector 7, Rohini,
New Delhi – 110 085.

vs.

ITO, Ward 2 (3),
Meerut.

(PAN : AAQCS6784A)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : SHRI Kapil Goel, Advocate
REVENUE BY : Shri H.K. Choudhary, CIT DR

Date of Hearing : 01.08.2023
Date of Order : 09.08.2023

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal filed by the assessee is directed against the order of Id.
CIT (A), Meerut dated 18.09.2017 pertaining to assessment year 2013-14.

2. Grounds of appeal taken by the assessee read as under :-

“1. That on the facts and in the circumstances of the case and in law, Id CIT-A erred in rejecting the application of assessee filed under rule 46A on extraneous and irrelevant grounds which comes under the teeth of the law and casting "heavy burden" for admission of additional evidence in utter disregard to legislative scheme which governs additional evidence admission procedure and thereby erroneously sustaining the

unlawful additions made by the Ld AO at page 14 of the impugned order.

2. That on the facts and in the circumstances of the case and in law, ld CIT-A erred in sustaining the unlawful additions made by the Ld AO at page 14 of the impugned order as all relevant evidences were available to AO at the time of assessment which were overlooked by Ld AO as complained to ld CIT-A clearly flouting principles of natural justice and fair play.

3. That on the facts and in the circumstances of the case and in law, ld CIT-A erred in sustaining the unlawful additions made by the Ld AO at page 14 of the impugned order as ld AO while passing order u/s 144 has not adhered to principle of natural justice (*audi altrem partem*).

4. That on the facts and in the circumstances of the case and in law, ld CIT-A erred in not restoring the returned income declared by assessee in its return of income.”

3. At the outset, ld. Counsel for the assessee submitted that assessee prays for lack of proper opportunity. He submitted that assessment order was framed during which assessee could not participate. Assessee has also submitted additional evidences before the ld. CIT (A) who rejected the same. Hence, ld. Counsel for the assessee prays that assessee should be provided an opportunity before the AO to properly canvass the case.

4. Per contra, ld. DR for the Revenue objected to the same.

5. Upon careful consideration, we find that assessment order has been framed wherein it is noted that assessee has not been cooperating with the Department and during appellate proceedings, before the ld. CIT (A), additional evidences were submitted but the same were rejected. In the

interest of justice, we accept the request of the Id. Counsel for the assessee and remit the issue to the file of AO. AO shall consider afresh and pass an order after providing the assessee an opportunity of being heard.

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

Order pronounced in the open court on this 9TH day of August, 2023.

**Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER**

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

**Dated the 9th day of August, 2023
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A), Hisar.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**
