

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'G': NEW DELHI  
BEFORE,  
SHRI N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.671/Del/2023  
(ASSESSMENT YEAR 2019-20)**

Sunil Singhal A-53, MIG DDA Flat Phase-1, Katwaria Sarai Hauz Khas, Delhi-110 016  PAN-AXHPS 1819D <b>(Appellant)</b>	Vs.	Asst. CIT Central Circle-31 Delhi  <b>(Respondent)</b>
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Appellant by	Mr. Vibhu Gupta, Advocate
Respondent by	Mr. Anuj Garg, Sr. DR

Date of Hearing	16/08/2023
Date of Pronouncement	21/08/2023

**ORDER**

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

This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-30, New Delhi ["Ld. CIT(A)", for short], dated 13/01/2023 for Assessment Year 2019-20.

2. Grounds taken in this appeal are as under:

*"1. That the Commissioner of Income-tax (Appeals) [CIT(A)] erred on facts and in law in passing the ex-parte order dated 13.01.2023 confirming the addition of Rs.35,77,533/- made by the assessing officer under section 69A of the Act of the Income-tax Act, 1961 (the Act). As such, the sole addition of Rs 35,77,533/- may kindly be deleted.*

2. That the CIT(A) erred on facts and in law in passing the impugned order in undue haste in gross violation of the principles of natural justice and without judiciously considering/ adjudicating the grounds raised by the appellant.

3. That the CIT(A) erred on facts and in law in dismissing, ex-parte, the appeal of the appellant without proper/ effective service of notice of hearing on the appellant, and proceeding on presumed service by purportedly sending the notice through email.

**Without Prejudice**

4. That the CIT(A) erred on facts and in law in confirming the addition of Rs.35,77,533/- made by the assessing officer under Section 69A of the Act on the alleged ground that the amount represented unexplained cash owned by the assessee.

4.1. That on the facts and circumstances of the case and in law, the CIT(A) erred in not appreciating that the cash represented sales made by the appellant which were duly disclosed/reflected in the books of accounts of the appellant.

4.2 That on the facts and in the circumstances of the case and in law, the CIT(A) erred in making the impugned addition merely on the basis of assumptions, estimation and conjectures and completely ignoring the robust documentary evidences filed by the appellant to substantiate its claim

4.3. That the CIT(A)/AO failed to bring on record any adverse material which could controvert the contentions/explanations made by the appellant regarding the cash seized. The AO, in its order, had accepted the books of account of the appellant (including sales, purchases, inventory etc.) and thus, there was no valid basis for making any addition under section 69A of the Act.

4.4. Strictly without prejudice to the above, the CIT(A) failed to appreciate that assessing officer erred in not considering the nature of business of the appellant and merely proceeded on conjectures and surmises. Such action of the assessing officer had resulted double taxation.

5. That the CIT(A) failed to appreciate that the approval accorded by the Addl. CIT/JCIT is merely mechanical, illegal, contrary to law and without application of mind. Thus, the impugned order suffers from

*the vires of a wrong approval under section 153D of the Act and is liable to be quashed on this ground itself.*

*6. The appellant craves leave to add, amend, alter or vary the above grounds of appeal at or before the time of hearing.*

3. Brief facts of the case are that, an assessment order came to be passed on 22/06/2021 u/s 143(3) of the Act against the assessee by computing the income of the assessee at Rs. 63,53,113/- as against declared income of Rs. 27,75,580/-. As against the assessment order, the assessee preferred an appeal before the CIT(A). The Ld. CIT(A) passed ex-parte order on 13/01/2023 by dismissing the Appeal filed by the assessee wherein the Ld. CIT(A) has confirmed the additions made by the A.O.

4. Aggrieved by the order of the CIT(A) dated 13/01/2023, the assessee preferred the present Appeal on the grounds mentioned above. The Ld. Counsel for the assessee submitted that the order impugned passed by the CIT(A) is in gross violation of principles of natural justice and the CIT(A) has not adjudicated the grounds raised by the assessee, therefore, sought for setting aside the matter to the file of CIT(A).

5. Per contra, the Ld. Departmental Representative relied on the orders of the CIT(A) and justified the orders of the Lower Authorities.

6. Heard both the parties. It is found that the CIT(A) has dismissed the Appeal filed by the assessee Ex-parte, while dismissing the Appeal the CIT(A) has not adjudicated the grounds raised by the assessee and the Appeal has

been dismissed on the ground that “*the assessee did not submit any argument/submission to support and supplement the grounds of Appeal*”.

7. Considering the above facts and circumstances, we set aside the impugned order of the CIT(A) and remand the matter to the file of the CIT(A) with a direction to decide the Appeal afresh on merit after hearing the assessee and the assessee is also directed to participate and cooperate with the proceedings before the CIT(A).

8. In the result, the Appeal of the assessee is partly allowed for statistical purpose.

9. Since, we have not decided the matter on merit, the other grounds of Appeal on merit are not adjudicated.

Order pronounced in open Court on 21<sup>st</sup> August, 2023

Sd/-

**(N.K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

Dated: 21/08/2023

*Pk/R.N, Sr ps*

Copy forwarded to:

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

Sd/-

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT, NEW DELHI

