

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

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

**ITA No:- 4191/Del/2019
(Assessment Year: 2014-15)**

Pradeep Kumar Gupta, Delhi.	Vs.	Income Tax Officer, Ward 46(1), New Delhi.
PAN No: AHTPG8488L		
APPELLANT		RESPONDENT

Assessee by : None
Revenue by : Shri Vivek Vardhan, Sr. DR

Date of Hearing : 19.09.2023
Date of Pronouncement : 19.09.2023

ORDER

PER N.K. BILLAIYA, AM

This appeal by the assessee is preferred against the order of the CIT(A)-16, New Delhi, dated 14.02.2019 pertaining to AY 2014-15.

2. The grievances of the assessee read as under:

"1. That in the assessment order, the Assessing Officer has either not responded at all or at the most merely made general observations to the reply to the show cause notice given by the assessee to the Assessing Officer and, therefore, the assessment order so passed at the direction/behest of the superior authorities is illegal and unjustified and, therefore, ought to be quashed.

19,89,270

2. That the assessee was not provided copy of the statements of parties and other materials relied upon by the Assessing Officer to make addition, that too Indisputably recorded/collected by the revenue at the back of the assessee, and, therefore, the resultant assessment order is illegal and unjustified.

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3. That despite specific request, the assessee was not given the opportunity of cross-examining the parties relied upon by the Assessing Officer for making addition and, therefore, the resultant assessment order is illegal and unjustified.

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4. That the assessment order passed without complying with the principles of natural justice is illegal and unjustified and, therefore, ought to be quashed.

19,89,270

5. That the addition of Rs. 25,14,840/- treating Long Term Capital Gain exempt u/s 10(38) as income being unexplained cash credit u/s 68 of the Income Tax Act particularly when all the necessary documents have been adduced is illegal and unjustified and, therefore, the addition of Rs. 25,14,840/- ought to be deleted.

7,74,570

6. That the long term capital gain of Rs. 25,14,840/- arising from the transfer of shares held in the companies listed in recognized stock exchange, indisputably transferred after holding such shares for a period of more than 12 months and securities transaction tax paid on sale thereof, is exempt u/s 10(38) of the Act, and, therefore, the addition of such long term capital gain made by the assessing officer in the assessment order is illegal and unjustified and ought to be deleted.

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7. That the addition of Rs. 25,14,840/- made u/s 68 is illegal and unjustified because of the assessee does not maintain any books of accounts.

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8. That the addition of Rs. 1,20,742/- treating the amount as commission paid on income taken as per ground No. 5 without providing an opportunity of being heard is illegal and unjustified and , therefore, the addition of Rs. 1,20,742/- ought to be deleted.

37,190

9. That the addition of Rs. 1,20,742/- on account of alleged payment of commission is illegal and unjustified and, therefore, ought to be deleted.

37,190

10. That the disallowance of interest paid of Rs. 39,14,698/- without providing any nexus between unsecured loan taken and advances given and without giving any show cause to assessee for disallowing the said interest is illegal and unjustified, and, therefore, the addition of Rs. 39,14,698/- ought to be deleted.

12,05,730

11. That the disallowance of interest paid of Rs. 39,14,698/- on interest bearing borrowing of Rs. 3,74,27,860/-, ignoring the fact that the assessee had earned interest of Rs. 69,10,226 on interest bearing loans and advances of Rs. 6,93,99,855 given by him and such interest income having been duly offered to tax, is illegal and unjustified, and, therefore, the addition of Rs. 39,14,698 ought to be deleted.

12,05,730

12. That the disallowance of interest paid of Rs. 39,14,698 is illegal and unjustified because the AO has not brought on record any evidence to prove the nexus between interest bearing loan taken by the assessee and the interest free advance given by the assessee and, therefore, the addition of Rs. 39,14,698 ought to be deleted.

12,05,730

13. That the disallowance of interest paid of Rs. 39,14,698/-, ignoring the vital fact that the net owned funds and interest free borrowings and liabilities of assessee far exceeds the interest free loans and advances given by the assessee, is illegal and unjustified and, therefore, the addition of Rs. 39,14,698 ought to be deleted.

12,05,730

14. That the disallowance of interest paid of Rs. 39,14,698/- on the basis of estimated amount of borrowings, calculated by capitalizing the estimated average rate of interest, is illegal and unjustified, being purely based on whims, surmises, assumptions and presumptions and, therefore, the addition of Rs. 39,14,698/- ought to be deleted.

12,05,730

15. That the assessment order is illegal and unjustified and, therefore, the addition of Rs. 64,50,280/- ought to be deleted.

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16. That the assessee craves leave to add, delete, amend or modify any ground at the time of hearing."

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3. The appeal was first listed for hearing on 15.06.2022 and thereafter on several dates as per order sheet's entries and on each date proper notice was served. The assessee chose not to attend the proceedings.

4. We have carefully considered the grounds of appeal mentioned hereinabove. In our considered opinion, ground no. 1 is not only cryptic but also vague and the entire grounds of appeal is not as per rules. Since, nobody is responding on behalf of the assessee. We are left with no choice but to dismiss the appeal. However, a liberty is given to the assessee to reframe the grounds of appeal and approach this Tribunal as per the relevant provision of law.

5. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 19.09.2023.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

Sd/-
(N.K. BILLAIYA)
ACCOUNTANT MEMBER

Dated: 19/09/2023.

Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	19/9/23
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	