

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

**BEFORE SHRI C.M. GARG, JUDICIAL MEMBER &
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.114/Del/2023
Assessment Year: 2016-17**

Syed Nadeem Abbas, House No.26, First Floor, South Extension Part-I, New Delhi- 1100 49 (PAN:AAFPA8817Q)	Vs.	ITO, Ward-28(4), New Delhi
(Appellant)		(Respondent)

Present for:

Appellant by : Shri Sachin Jain, Adv.
Respondent by : Shri Anuj Garg –SR. DR

Date of Hearing : 11.09.2023
Date of Pronouncement : 11.09.2023

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of learned Commissioner of Income-tax(Appeals), Delhi, Appeal No.CIT(A)-10/20233/2018-19 dated 19.12.2022 against the order under Section 144 of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 12.12.2018 passed by ITO, Ward-28(4), Delhi for the assessment year 2016-17.

2. At the outset, we take up ground no.2 raised by the assessee in the present appeal before us which is reproduced as under:

Ground No.2:

That the assessment order passed under Section 144 by the learned Assessing Officer as well as the order passed by the National Faceless Appeal Centre(NFAC) deserves to be quashed since the same were passed without following the principles of natural justice, settled law as declared various courts and without application of mind.

3. In reference to the above ground, we note that the impugned assessment order has been passed by the learned Assessing Officer under Section 144. He noted that several opportunities were given by issuing show-cause-notices which remained not complied in absence of any corroborative evidence furnished in support of claim of the assessee. Assessment was completed ex parte. In the return filed by the assessee, he had claimed agricultural income of Rs.50,20,892. Case of the assessee was selected for limited scrutiny under CASS on the issue of "large agricultural income". Since, no documentary evidences were furnished in this respect, this was added as income from other sources. Against this, assessee went in appeal before the learned Commissioner of Income-Tax(Appeals).

4. Learned Commissioner of Income-Tax(Appeals) noted four different dates which were fixed for hearing and remained unattended by the assessee. In para 3.1 of his order, learned Commissioner of Income-Tax(Appeals) noted that notices were sent on the e-mail id caspagrwal@gmail.com mentioned in Form 35. Since, there was no

compliance on the notices issued for the hearings and in absence of any submission from the assessee, learned Commissioner of Income-Tax(Appeals) disposed it on the basis of statement of facts filed in Form 35. Learned Commissioner of Income-Tax(Appeals) presumed that assessee is not interested in pursuing his appeal and thus did not find any reason to interfere with the order of learned Assessing Officer. The appeal was, thus, dismissed. Aggrieved, assessee is in appeal before the Tribunal.

5. On the above stated ground of appeal, learned counsel for the assessee submitted that in the present time, conduct of appellate proceedings at the first appellate stage is in digital mode. Notices for fixing the date of hearing are sent on email address mentioned in Form 35. In the present case, learned Commissioner of Income-Tax(Appeals) took note of the email id incorrectly which resulted in to non-receipt of the notices issued for fixing the date for hearing. Learned counsel pointed to the discrepancy in the email id noted by the learned Commissioner of Income-Tax(Appeals) in para 3.1 of his order vis-a-vis that mentioned in Form 35. In Form 35, the correct email id is caspagarwal@gmail.com whereas in the email id taken by learned Commissioner of Income-Tax(Appeals) for issuing notices is caspagrwal@gmail.com. Considering this discrepancy, learned counsel prayed that the matter may be remitted back to the file of learned

Commissioner of Income-Tax(Appeals) for fresh adjudication by giving reasonable opportunity of being heard and by allowing the assessee to make submission.

6. Learned Senior DR did not object on the prayer so made by the learned counsel.

7. Considering the facts on record and the discrepancy pointed out as noted above, we find it proper to accept the prayer made by the learned counsel and remit the matter back to the file of learned Commissioner of Income-Tax(Appeals) for fresh adjudication by affording reasonable opportunity of being heard to the assessee and allowing him to make his submission in support of the claim. The assessee is also directed to be diligent in attending the hearing so fixed. Accordingly, ground no.2 taken by the assessee is allowed for statistical purposes.

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

Order is pronounced in the open court on 11.09.2023.

Sd/-

**(C.M. Garg)
Judicial Member**

Sd/

**(Girish Agrawal)
Accountant Member**

Dated: 11th September, 2023
Mohan Lal

Copy forwarded to:

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

By Order

Assistant Registrar
ITAT, Delhi Benches, New Delhi