

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

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

**ITA No. 76/Del/2023  
Assessment Year: 2017-18**

Subhash, Prop. Subhash Trading Co., Shop No.36, Anaj Mandi, Kharkhoda, Sonipat, Hr. PIN: 131001 (PAN:BBBPS4682P)	Vs.	ITO, Ward-4, Sonipat
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for:**

Appellant by : Ms. Nikita Gupta, 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), Rohtak/10643/2019-20 dated 20.12.2022 against the order under Section 144 of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 17.12.2019 passed by ITO, Ward-4, Sonipat for the assessment year 2017-18.

2. At the outset, we take up ground no.2 raised by the assessee which is in respect of dismissing the appeal by the learned Commissioner of Income-Tax(Appeals) for non-prosecution and not providing proper opportunity of hearing to represent the case and file required replies.

3. Brief facts of the case are that assessee filed his return of income on 15.02.2018, reporting total income of Rs.9,34,520 along with agricultural income of Rs.5,33,221. Learned Assessing Officer in the course of assessment proceeding issued notice under Section 142(1) and fixed the case for hearing on four different occasions to inquire upon deposit of cash of Rs.39,98,500 during the demonetization period. Learned Assessing Officer noted that assessee failed to give any explanation about the nature and source of cash deposited in his bank account. He completed the assessment by treating the amount of Rs.39,98,500 as unexplained money under Section 69A of the Act and added it to the total income. Learned Assessing Officer also made addition in respect of agriculture income and expenses relating to exempt income. Aggrieved, assessee went in appeal before the learned Commissioner of Income-Tax(Appeals).

4. Learned Commissioner of Income-Tax(Appeals) noted that assessee has not effectively pursued the appellate proceedings and failed to respond to various notices issued by his office. He, thus, proceeded to

dispose of the appeal on the basis of material on record and concluded in confirming the additions made by the learned Assessing Officer. Aggrieved, assessee is in appeal before the Tribunal.

5. Before us, learned counsel pleaded to restore the matter back to the file of learned Assessing Officer by giving an assurance that necessary compliances will be made in support of the claim of the assessee once proper opportunity of hearing is granted to the assessee. Learned Senior DR did not object on the prayer made by the learned counsel. Considering the facts and the circumstances of the case, as well as the assurance pleaded by the learned counsel, we find, in the interest of justice and fair play to remit the matter back to the file of the learned Assessing Officer for de novo assessment. We direct that the assessee be given reasonable opportunity of being heard and to make the necessary submission in support of his claim. We also direct the assessee to be diligent in attending the hearing fixed by the learned Assessing Officer and cooperate for the expeditious disposal, failing which the learned Assessing Officer may proceed to complete the assessment in accordance with the provisions of law. Accordingly, ground taken by the assessee is allowed for statistical purposes.

6. 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: 11<sup>th</sup> 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