

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "B": NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

**ITA No. 1666/DEL/2023  
Assessment Year: 2016-17**

Grand Venezia Commercial Towers Private Limited, G-13, UGF, Kanchenjunga Building, 18, Barakhamba Road, New Delhi-110001. <b>PAN- AADCG5999A</b>	<u>Vs</u>	ACIT, Circle-10(2), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	Sh. Vikas Jain, Adv. & Mohd. Imran, Adv.	
<b>Department represented by</b>	Sh. Vivek Kumar Upadhyav, Sr. DR	
<b>Date of hearing</b>	05.10.2023	
<b>Date of pronouncement</b>	10.10.2023	

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 20.03.2023, pertaining to the assessment year 2016-17. The assessee has raised following grounds of appeal:

*“1. That CIT(A) has grossly erred in law and on facts in passing an order against the principle of natural justice and against the principles of law.*

2. *That CIT(A) has grossly erred in law and on facts in making an addition of Rs. 3,44,700/- u/s 14A of the Act.*
  3. *That the CIT(A) has failed to appreciate that assessee has not earned any tax exempt income during the year and therefore no disallowance can be made u/s 14A of the Act.*
  4. *That CIT(A) has erred in law and on facts in making addition of Rs. 77,55,573 u/s 37(1) of the Act*
  5. *That CIT(A) has erred in law and on facts in making addition of Rs. 3,23,000 u/s 40(a)(i) of the Act*
  6. *That CIT(A) has erred in law and on facts in making addition of Rs. 60,000 u/s 40(a)(ia) of the Act*
  7. *That CIT(A) has erred in law and on facts in passing assessment order without considering material on record.*
  8. *That CIT(A) has erred in law and on facts in passing assessment order on surmises and conjectures.*
  9. *The appellant craves leave to add, amend, alter and/or delete any of the above grounds of appeal at or before the time of hearing.”*
2. Facts giving rise to the present appeal, in brief, are that in this case the assessee had filed its return of income through electronic mode on 20.10.2017, declaring loss of Rs. 4,95,87,002/-. The assessee is engaged in the business of real estate, construction and development. The case was taken up for scrutiny assessment and assessment u/s 143(3) of the Income-tax Act, 1961, hereinafter referred to as the “Act”, was framed vide order dated 23.12.2018. Thereby the AO made various additions to the returned income. The AO by invoking the provisions of Section 14A of the Act made addition of Rs. 3,44,700/-. He disallowed expenditure u/s 37(1) of the Act at Rs. 77,54,573/-; and further made disallowance

u/s 40(a)(i) at Rs. 3,23,000/- and disallowance u/s 40(a)(ia) of the Act at Rs. 60,000/-. Thus, the AO assessed loss at Rs. 4,11,04,729/- as against the returned loss of Rs. 4,95,87,002/-. Aggrieved against this the assessee preferred appeal before the learned CIT(A), who dismissed the appeal ex parte to the assessee. Aggrieved, the assessee is in appeal before this Tribunal.

3. At the outset learned counsel for the assessee pointed out that notices of hearing issued by the AO were at a wrong address. He contended that the notice was required to be issued at 28, Raja Garden, New Delhi-110015. However, the notice was issued at 133A Mohan Cooperative Industrial Estate, Mathura Road, Delhi-110044. Further, notice through e-mail was also sent at the wrong mailing address.

4. Learned DR, however, supported the impugned order of the learned CIT(A).

5. We have heard rival submissions. We find that the learned CIT(A), without advertng on merits of the case, has dismissed the appeal by observing as under:

*“4. During the appeal proceedings, the assessee was provided an opportunity of being heard on 24.07.2020, 21.01.2021, 24.01.2023 and 20.02.2023 however, no details are filed despite the fact that notices were duly served. The approach of the assessee amply shows that it is not interested in prosecuting the appeal. Therefore, having considered the entire facts of the case and evidence available on record, the appeal so filed is dismissed.”*

5.1. Therefore, looking to the fact that notices were sent at a wrong address, it would sub serve the interest of principles of natural justice if the impugned order is set aside and the grounds of appeal are restored to the file of learned CIT(A) for decision afresh after affording reasonable opportunity of being heard to the assessee and adverting on merit of the case. We order accordingly. Grounds raised in this appeal are allowed for statistical purposes.

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

Order pronounced in open court on 10<sup>th</sup> October, 2023.

**Sd/-**  
**(PRADIP KUMAR KEDIA)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

\*MP\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**  
**ITAT, NEW DELHI**