

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B', NEW DELHI**

**BEFORE SH. SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI KUL BHARAT, JUDICIAL MEMBER**

ITA No.2063/DEL/2023
(Assessment Year : 2012-13)

Erstwhile Achiever's International, 28, Malka Ganj Road, Jawahar Nagar, New Delhi-110 007 PAN No. AAKFA 9671 P (APPELLANT)	Vs.	ITO Ward - 34(5) New Delhi (RESPONDENT)
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Assessee by	-None
Revenue by	Shri Vivek Kumar Upadhyay, Sr. D.R.

Date of hearing:	16.11.2023
Date of Pronouncement:	20.11.2023

PER SHAMIM YAHYA, AM :

This appeal filed by the assessee is directed against the order of Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC) - Delhi dated 22.05.2023 pertaining to Assessment Year 2012-13.

2. The grounds of appeal filed by assessee, which reads as under:

1. *"The Ld. Commissioner, Appeals ("CIT-A") was not justified in confirming the initiation of the firm's reassessment proceedings by the Ld. AO, based on the report of the Investigation Wing, New Delhi, without conducting an independent enquiry before recording satisfaction and the reasons to believe that income had escaped assessment and also on the basis of permission of the higher authority which was granted on dotted lines in a mechanical manner without proper application of mind.*
2. *The Ld. CIT-A was not justified in confirming the impugned assessment order under section 147 read with section 144 without appreciating the fact that the firm in question had been dissolved vide dissolution deed dated 01.04.2010 and was, therefore, not in*

existence at the time of issuance of notice and that any notice issued to a non-existent assessee was void ab-initio

3. *Without prejudice, the Ld. CIT-A was not justified in making an addition of Rs. 8,53,36,625/- being loan received during the year, as cash credit ignoring the submissions of the appellant and the evidence produced during the course of the assessment proceedings in support of the identity and creditworthiness of the lender and the genuineness of the transactions.*
4. *The Ld. CIT (A) was not justified in rejecting the appeal of the appellant and confirming the action of the Ld. AO in passing the impugned assessment order, without providing an opportunity of being heard in the matter in both cases, which is against the principles of natural justice.*
5. *The appellant craves leave to add, alter, amend, modify and delete any grounds of appeal.”*

3. In this case, the assessment was reopened and assessment order was passed under section 147 r.w.s 144 of the Income-tax Act, 1961. During the assessment, the AO noted that the assessee has huge bank credit entries as follows:

Name of the account holder	Bank account no.	F.Y.	Total Credits
M/s. Achievers International	100405000158	2011-12	Rs.8,53,36,625/-

4. The Assessing Officer made enquires but proper compliance was not done. Hence, AO held the sum as income from undisclosed sources for the assessee. Upon assessee's appeal, learned CIT(A) also noted that no compliance has been done. Hence, he confirmed the AO's order. Against this order, assessee is in appeal before us.

5. We have heard learned DR. None appeared on behalf of the assessee despite notice. Upon careful consideration, we find that it is correct that no

compliance has been done by the assessee before the AO and CIT(A) which has resulted in *ex parte* orders at both the levels. A perusal of the learned CIT(A)'s order shows that there is no mention that the assessee was given an opportunity to canvas the case properly. Accordingly, in the interest of justice, we remit this issue to the file of learned CIT(A). The learned CIT(A) is directed to consider the issue afresh after giving the assessee proper opportunity of being heard.

6. Learned DR did not have any objection to the above proposition.
7. In the result, appeal of assessee is allowed for statistical purposes.

Order pronounced in the open court on 20.11.2023

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

Date:- 20.11.2023

*Priti Yadav, Sr. PS**

Copy forwarded to:

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

Sd/-

**(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR
ITAT NEW DELHI