

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

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

**ITA No.2313/DEL/2023
Assessment Year: 2016-17**

Goel Brothers Ganga Sadan, 242- Sarai Nazar Ali, Ghaziabad PAN No.AABFG3306L	Vs.	ITO Ward- 2 (1) (2) Ghaziabad
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Akhilesh Kumar, Advocate
Respondent by	Sh. Sanjay Kumar, Sr. DR

Date of hearing:	28/11/2023
Date of Pronouncement:	28/11/2023

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT (A), Ghaziabad dated 18.07.2023 pertaining to A.Y.2016-17.

2. The grievance of the assessee read as under :-

- “1. Because, order of Id. CIT (Appeals) is bad in law and against the facts and circumstances of the case
2. Because, Id. CIT (Appeals) inherently wrong in dismissing the appeal in limine, without adjudicating/considering any of the grounds pressed, thus order is against the provisions of section 250/251 of Act and law settled on the issue.
3. Because, Id. CIT (Appeals) erred in dismissing the appeal ex-party without providing proper opportunity of being heard, though no notice of hearing was served/received on address for communication given in appeal memo.
4. Because, Id. CIT(Appeals) failed to appreciate that AO had not provided proper opportunity of being heard who after reply dated 02.11.2018 had not provided any opportunity with queries on any issue thus all the additions are made unilaterally.
5. Because, disallowance of remuneration/interest etc to partner is not only against the facts of case but is against the provisions of Act.
6. Because, separate addition of Rs. 8,63,244/-, being interest on FD pledged as performance security is without assigning any reason and without following the law settled on the issue.
7. Because, addition of Rs. 26,69,000/- being the old loans already assessed is against all the canons of law defeating the provisions of section 68 of Act.

8. *Because, addition of Rs. 17,63,000/-, being the addition to partner's capital is without appreciating the fact about genuinity of addition.*

Therefore, it is very respectfully prayed that this Hon'ble Court may kindly be pleased to quash the order of ld. Lower authority with the directions as deemed fit."

3. At the very outset, the Counsel for the assessee stated that the CIT(A) dismissed the appeal in limine without affording proper opportunity of being heard to the assessee.

4. The DR stated that the CIT(A) had issued notices to the assessee.

5. We have carefully perused the order of the CIT(A). We find that though there a mention of issue of notices but whether the notices were served is not known. Moreover, the appeal has been dismissed in limine, therefore, in the interest of justice we restore this appeal to the files of the CIT(A). The CIT(A) is directed to decide the appeal on merits of the case after affording a reasonable and adequate opportunity of being heard to the assessee.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

7. Decision announced in the open court on 28.11.2023.

Sd/-

**(ASTHA CHANDRA)
JUDICIAL MEMBER**

NEHA

Date:- .11.2023

Copy forwarded to:

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

Sd/-

**(N. K. BILLAIYA)
ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR
ITAT NEW DELHI