

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “SMC” BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.2563/Del/2023  
[Assessment Year : 2018-19]**

Manmohan Singh Bajaj, F-75, First Floor, Kalkaji, New Delhi-110019. <b>PAN-AAWPB1075G</b>	vs	ITO, Ward-29(1), Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Vinod Bhatia, CA	
<b>Respondent by</b>	Shri Om Parkash, Sr.DR	
<b>Date of Hearing</b>	06.12.2023	
<b>Date of Pronouncement</b>	12.12.2023	

**ORDER**

**PER KUL BHARAT, JM :**

The present appeal filed by the assessee is directed against the order passed by Ld.CIT(A), National Faceless Appeal Centre (“NFAC”), Delhi dated 30.06.2023 for the assessment year 2018-19.

2. The assessee has raised following grounds of appeal:-

1. *“Ground (1) 2nd floor of property no. 1912A-19, was never registered in the name of assessee. copy of transferred deed registered at Mahrauli Court New Delhi are enclosed to prove the property is in the name of Inderjeet Gandhi & also in the records of MCD.*
2. *Ground (2) Ld. CIT (A) Rejected our ground no.3 on the ground copy of draft order of AO was not attached which was devoid of issues which AO has taken in to consideration after words. Copy of draft order is now enclosed.”*

3. Apropos to grounds of appeal, Ld. Counsel for the assessee at the outset, submitted that Ld.CIT(A) failed to appreciate the fact that the Assessing Officer (“AO”) had passed a draft assessment order. As per the draft assessment order, the total income was determined at INR 6,57,587/- after disallowing interest on borrowed capital. However, while framing the final assessment order, the income of the assessee was determined at INR 7,16,920/- and additions were made on account of income from business was INR 2,58,500/-; income from house property was INR 3,36,533/- and income from other sources was INR 1,57,165/- against the declared income of INR 5,17,300/-. He contended that the assessee was not given sufficient opportunity to represent his case before making assessment on other issues.

4. On the other hand, Ld. Sr. DR for the Revenue opposed these submissions and supported the orders of the authorities below.

5. I have heard Ld. Authorized Representatives of the parties and perused the material available on record. I find that before Ld.CIT(A) also, the assessee has stated that the AO made addition on another issue which was not made in the draft assessment order. Ld.CIT(A) dismissed the grounds of appeal raised by the assessee by observing as under:-

*“In ground of appeal no. 3, appellant contended that draft order issued to him contained only one issue and addition was made on second issue without getting any clarification from him. Appellant contention was duly considered but found not acceptable as appellant failed to submit copy of draft assessment order issued to him by the AO. Moreover, on verification of CASS reason & details available on ITBA module, it is observed that case of appellant was selected for scrutiny on the same issue and*

*accordingly notices were issued and queries were raised in assessment proceeding. Thus appellant cannot claim that addition was made without getting any clarification from him. Appellant does not succeed on this count. Ground of appeal is accordingly dismissed.”*

6. From the above finding, it is clear that Ld.CIT(A) dismissed the grounds of appeal on the basis that the draft assessment order was not furnished before him. However, before me, a show cause notice dated 15.12.20202 is produced which was issued, calling upon the assessee as to why the assessment should not be completed as per the draft assessment order. Alongwith this in para 2 of this notice, the AO has proposed to make addition. Therefore, looking to the facts of the present case and to sub-serve the principle of natural justice, I deem it proper to restore the assessment to the file of AO and set aside the impugned order. The AO would frame the assessment afresh after giving reasonable opportunity of being heard to the assessee. Grounds raised by the assessee are accordingly, allowed for statistical purposes.

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

Order pronounced in the open Court on 12<sup>th</sup> December, 2023.

**Sd/-**

**(KUL BHARAT)  
JUDICIAL MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI