

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

**ITA No.2404/Del/2023
[Assessment Year : 2017-18]**

Dharmendra, S/o-Shri Prempal, Village- Sajna Muslim Gunnaur, Sambhal-243722. PAN-BJKPD6962J	vs	CIT(A), NFAC, Income Tax Department, Delhi.
APPELLANT		RESPONDENT
Appellant by	Shri K.Sampath & Shri V.Raja Kumar, Advocates	
Respondent by	Shri Om Parkash, Sr.DR	
Date of Hearing	06.12.2023	
Date of Pronouncement	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 19.09.2022 for the assessment year 2017-18.

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

1. *“That the learned Commissioner of Income-tax (Appeals) has erred in law and on facts in confirming the Assessment order passed by Assessing Officer u/s 144 of Income-tax Act, 1961.*
2. *That the learned Commissioner of Income-tax (Appeals) has erred in law and on facts in confirming the addition made by Assessing Officer of Rs. 16,17,000/- deposited in bank at the time of opening of account and thereafter.*
3. *That the learned Commissioner of Income-tax (Appeals) has erred in law and on facts in confirming the addition of business Income of Rs. 4,95,328/-.*

4. That the learned Commissioner of Income-tax (Appeals) has erred in law and on facts in confirming the addition of Rs. 1,25,447/-.

Therefore it is prayed to kindly allow due relief to the appellant.”

3. The present appeal is barred by 279 days. Ld. Counsel for the assessee reiterated the submissions as made in the application seeking condonation of delay. An affidavit by the Advocate on behalf of the assessee has been filed, stating that due to his illness, he could not contact the assessee.

4. Ld. Sr. DR for the Revenue opposed this submission of the assessee.

5. However, looking to the facts and evidences placed before me, I am of the considered view that there was reasonable cause for not filing the appeal on time. Therefore, the delay of 279 days is condoned and the appeal filed by the assessee is taken up for hearing.

6. Apropos to grounds of appeal, Ld. Counsel for the assessee at the outset, submitted that the assessment order was passed *ex-parte* to the assessee. The assessee was not given sufficient opportunity of being heard to represent its case. He contended that even before Ld.CIT(A), there was no effective representation on behalf of the assessee. He therefore, prayed that matter may be restored to the Assessing Officer (“AO”).

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

8. I have heard Ld. Authorized Representatives of the parties and perused the material available on record. There is no dispute with regard to the fact

that there was no effective representation on behalf of the assessee before the Lower Authorities. Therefore, to sub-serve the principle of natural justice, I am of the considered view that the assessee should be given reasonable opportunity of being heard. Thus, the impugned order is hereby, set aside and the assessment is restored to the AO for making assessment afresh after giving adequate opportunity of being heard. The assessee is directed not to seek adjournment without any reasonable cause and cooperate in the assessment proceedings. Grounds raised by the assessee are accordingly, allowed for statistical purposes.

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

Order pronounced in the open Court on 12th 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