

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 3040/DEL/2023
Assessment Year: 2017-18

Ashok Aggarwal, 2528, Tri Nagar, New Delhi-110035. PAN- AAAPA3860C	<u>Vs</u>	ACIT, Circle-61(1), New Delhi.
APPELLANT		RESPONDENT
Appellant by	Shri Gaurav Kabra, CA	
Respondent by	Shri Om Parkash, Sr. DR	
Date of hearing	19.12.2023	
Date of pronouncement	19.12.2023	

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 20.09.2023, pertaining to the assessment year 2017-18. The assessee has raised following grounds of appeal:

- “1. The Learned Assessing Officer has erred in reopening the assessment without considering the facts and circumstances of the case.*
- 2. The Learned Assessing Officer has erred in adding sum of Rs. 23,90,500/- to the income tax of appellant u / s 69A of the income tax act. 1961, without considering the facts and circumstance of the case.*

3. *On the facts and circumstances of the case and in law, the various remarks/allegations/inferences drawn by assessing officer for making addition of Rs. 23,90,500/- are erroneous and the addition made is liable to be deleted.*

4. *On the facts and circumstances of the case and in law, the assessing officer erred in applying provisions of section 115BBE of the Act.*

5. *On the facts and circumstances of the case and in law, the assessing officer erred in charging interest u/s 234B and 234C of the Act.*

6. *On the facts and circumstances of the case and in law, the assessing officer erred in initiating penalty proceedings u/s 271AAC of the Act.*

7. *The appellant craves leave to add, amend, alter or delete the said ground of appeal.”*

2. Apropos to the grounds of appeal learned counsel for the assessee submitted that there was no effective representation on behalf of the assessee before the learned CIT(A). Learned counsel further contended that only three notices for hearing were issued and two were during Covid-19 period. It was contended that matter may be restored to the file of learned CIT(A) for decision on merit.

3. Learned DR on the other hand opposed the submissions and supported the orders of authorities below.

4. I have heard rival submissions and perused the material available on record. I find that the learned CIT(A) had given opportunity of hearing on three occasions. It is stated that two of the notices were issued during Covid-19 period. Considering the material available on record I am of the considered view that in the interest of

principles of natural justice, the assessee should be given an opportunity for representing his case before the first appellate authority. Therefore, I hereby set aside the impugned order of learned CIT(A) and restore the grounds of appeal before learned CIT(A) to decide it afresh on merit after affording adequate opportunity of hearing to the assessee. Needless to say, the assessee would not seek any adjournment without any reasonable case. Grounds raised by the assessee are allowed for statistical purposes.

5. Appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court on 19.12.2023.

**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**