

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 2146/DEL/2023
Assessment Year: 2016-17

Suresh Saini, MB 32 Gali No. 2, Master Block, Shakarpur, East Delhi-110092. PAN- AEUPS5782H	<u>Vs</u>	Income-tax Officer, Ward-62(3), New Delhi.
APPELLANT		RESPONDENT
Appellant by	Shri M.K. Bhatt, CA & Sh. Malav Goswami, Adv.	
Respondent by	Shri Om Parkash, Sr. DR	
Date of hearing	20.12.2023	
Date of pronouncement	20.12.2023	

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 29.05.2023, pertaining to the assessment year 2016-17. The assessee has raised following grounds of appeal:

"1. The Order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [hereinafter called "CIT(A), NFAC] is completely bad in law and wrong on facts. The same has been passed without considering the facts and circumstances of the case, and in violation of principles of natural justice.

2. The CIT (A), NFAC has erred in law and on facts in treating the assessee as non-compliant and upholding the additions of Rs. 7,00,000/- made to the income of the assessee, even though the assessee appeared personally and made submissions before the CIT(A) - 33 Delhi, and the same have not been considered at the time of passing the Order under section 250.

3. The CIT (A), NFAC has erred in law and on facts in upholding the additions of Rs. 7,00,000/- as the assessee has submitted documents in support of the claim of sale of mangoes, and the same has not been considered by the CIT(A)

4. The CIT (A), NFAC has erred in law and on facts in dismissing the appeal of the assessee due merely a one day delay as the delay was due to technical difficulties faced by the assessee, and there was no benefit to the assessee from filing such delayed appeal.

5. The appellant craves leave to add, amend, delete or modify any or all of the above grounds of appeal before or at the time of hearing.

6. The appellant craves leave to consider all of the above grounds as being without prejudice to each other.”

2. Facts, in brief, are that for A.Y. 2016-17 the assessee filed his return of income on 29.03.2018 declaring income of Rs. 1,22,910/-. The case of the assessee was selected for scrutiny under CASS and the assessment u/s 143(3) of the Income-tax Act, 1961 (the “Act”) was completed vide order dated 18.12.2018 at Rs. 8,22,910/- by making addition of Rs. 7,00,000/- as unexplained income. Aggrieved against it the assessee preferred appeal before the learned CIT(Appeals), who dismissed the appeal by confirming the action of the AO. Aggrieved, the assessee is in appeal before this Tribunal.

3. Apropos to the grounds of appeal, learned counsel for the assessee submitted that had before the AO the assessee had duly explained exempt agricultural income

of Rs. 51,00,000/- claimed by him, out of which AO did not accept the claim with respect to sale of mangoes and accordingly made addition of Rs. 7,00,000/- as unexplained income of the assessee, solely on the ground that the letter sent to Tehsildar to verify the claim of the assessee was not responded by him. In appeal He submitted that the assessee being an agriculturist was not familiar with the NFAC system of appeal due to which he could not reply to the notices issued by the NFAC and the learned CIT(A), NFAC without considering the merits of the case, dismissed the appeal solely on the ground of one day's delay in filing the appeal. Learned counsel prayed that to subserve the interest of natural justice the matter may be restored to the file of learned CIT(A) to decide the appeal on merits after affording adequate opportunity of being heard to the assessee.

4. On the other hand, learned DR opposed the submissions and supported the orders of authorities below.

5. I have heard rival submissions and perused the material available on record. Considering the submissions made on behalf of the assessee that there could not be any representation on behalf of the assessee before the learned first appellate authority to explain his case, to subserve the interest of natural justice, I am constrained to set aside the order of learned CIT(A) and hereby restore the matter to the file of learned CIT(A) to decide the appeal on merits, after affording

adequate opportunity to the assessee of being heard and to adduce evidences, if any, in support of his case. Grounds of appeal are allowed for statistical purposes.

6. Appeal of the assessee stands allowed for statistical purposes only.

Order pronounced in open court on 20.12.2023.

**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**