

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

**BEFORE, SHRI M. BALAGANESH, ACCOUNTANT MEMBER
And
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.2403 & 2405/DEL/2023
(ASSESSMENT YEARS: 2011-12 & 2012-13)**

Income Tax Officer, Ward-2(2), HSIDC Building, Shankar Chowk, Udyog Vihar, Phase-5, Haryana-122016	Vs	Smt. Kumudani Jhangu Prop. Jyoti Associates, C2/998, Ansal Villa, Palam Vihar, Gurgaon, Haryana-122017
		PAN-AEAPJ4346L
Revenue		Assessee

Revenue by	Mr. Waseem Arshad, CIT(DR)
Assessee by	Ms. Swati Talwar, Adv.

Date of Hearing	30.11.2023
Date of Pronouncement	21.12.2023

ORDER

PER M.BALAGANESH, AM:

These appeals of the revenue arise against the order of National Faceless Appeal Centre (NFAC) Delhi in DIN-ITBA/NFAC/S/250/2023-24/1053947990(1) in Appeal No. CIT(A), Gurgaon-1/ 10746/2018-19 dated 26.6.2023 for the Asst Year 2011-12 and DIN-ITBA/NFAC/S/250/2023-24/1053949279(1) in Appeal No. CIT(A), Gurgaon-1/ 10859/2019-20 dated 26.6.2023 for the Asst Year 2012-13. Identical issues are involved in both these appeals, they are taken up

together and disposed of by this common order for the sake of convenience.

2. The only identical issue to be decided in these appeals is as to whether the Id.CIT(A) was justified in setting aside the appeals to the file of Id. AO when additional evidences were filed by the assessee before him.

3. We have heard the rival submissions and perused the materials available on record. We find that the assessee had furnished certain additional evidences in support of his contentions before the Id. CIT(A) . The Id. CIT(A) instead of taking an independent judicious call on the admission of those additional evidences had simply resorted to remand the entire appeals to the file of Id. AO. The law as is relevant for the years under consideration is very clear that the Id. CIT(A) does not have any power to set aside the appeals filed before him. Hence we deem it fit and appropriate to restore these appeals to the file of Id. CIT(A) for denovo adjudication in accordance with law. The Id. CIT(A) is also directed to take an independent judicious call with regard to the admission of additional evidences filed before him by the assessee. Accordingly, the ground raised by the Revenue is allowed for statistical purposes for both the years.

4. In the result, both the appeals of the Revenue are allowed for statistical purposes.

Order pronounced in the open court on 21st December, 2023.

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 21.12.2023

Shekhar

Copy forwarded to:

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

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI