

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'G': NEW DELHI)**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No:- 2503/Del/2023
(Assessment Year: 2012-13)**

M/s SD Propcon Pvt. Ltd., 703-704, Ocean Complex, P-6, Sector-18, Noida, G.B. Nagar (U.P.)-201301.	Vs.	Income Tax Officer, Ward 22(4), New Delhi.
PAN No: AAMCS0764N		
APPELLANT		RESPONDENT

Assessee by : Shri Sandeep Sapra, Adv.
Revenue by : Shri Anuj Garg, Sr. DR

Date of Hearing : 01.01.2024
Date of Pronouncement : 01.01.2024

ORDER

PER N.K. BILLAIYA, AM

This appeal by the Assessee is preferred against the order dated 06.07.2023 by NFAC, Delhi, pertaining to A.Y. 2012-13. The grievance of the assessee reads as under:

"1. That the Ld. CIT(A)-NFAC has erred on facts and in law in passing an ex-parte order dated 06/07/2023 as no notice of hearing dated

09/06/2023 fixing the appeal for 26/06/2023 was served on the Appellant as specified under section 282 of I.T. Act read with Rule 127 of I.T. Rules thereby violating the principles of natural justice.

2. Without prejudice to above, the ex-parte order dated 06/07/2023 passed by the Ld. CIT(A) is bad in law as various grounds of appeal raised in Form 35 have not been adjudicated upon.

3. That the impugned reassessment order as passed u/s 147/143(3) of I.T Act by ITO, Ward 22(4), New Delhi (in short AO) is also bad in law as initiation of reassessment proceedings u/s 147/148 of I.T. Act is illegal.

4. That without prejudice to Ground No. 3 above, the impugned reassessment order as passed u/s 147/143(3) is also bad in law as the AO did not provide the necessary information/documents so as to enable the Appellant to file its objections against reasons as recorded/initiation of proceedings u/s 147/148 of I.T. Act thereby violating the principles of natural justice.

5. That the Ld. CIT(A) has erred on facts and under the law in confirming/upholding the following additions aggregating to Rs.2,30,40,000:

a) Rs.2,00,00,000 u/s 68 on account of advance received for purchase of property from Krad Securities Pvt. Ltd..

b) Rs. 10,00,000 u/s 68 on account of share capital received from SSJ Foods Ltd..

c) Rs.5,00,000 u/s 68 on account of share capital received from South Asia Impex Pvt. Ltd.

d) Rs. 10,00,000 u/s 68 on account of share capital received from G.T. Comex Pvt. Ltd.

e) Rs.5,40,000 u/s 68 on account of payment made to sundry creditor, M/s Apex Enterprises.

6. That the AO has erred on facts and under the law in making addition of Rs.3,45,600 u/s 69C of LT. Act on account of commission allegedly paid @1.5% to entry operators outside the books of accounts for taking accommodation entries amounting to Rs.2,30,40,000.

7. That the levy of interest u/s 234B of Rs. 70,38,426 is arbitrary, unjust and illegal and without prejudice such interest as levied is very excessive

8. That the Appellant reserves its right to add amend/modify the grounds of appeal.

2. At the very outset, the Counsel for the assessee stated that the appeal has been dismissed by NFAC ex-parte and prayed for the restoration of the appeal. The DR fairly conceded that the appeal has been dismissed ex-parte.

3. We have carefully considered the order of the NFAC. We find that the appeal was listed for hearing before NFAC as per chart mentioned at page 3 and 4 of the order. However, we find that the NFAC had dismissed the appeal in limine and without going into the merits of the case.

4. Therefore, in the interest of justice and fair play, we deem it fit to restore the appeal to the files of the NFAC with the direction to decide afresh after affording a reasonable and adequate opportunity of being heard to the assessee.

Order pronounced in the Open Court on 01.01.2024

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 01/01/2024.
Pooja/-

Sd/-
(N.K. BILLAIYA)
ACCOUNTANT MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	01.01.24
Date on which the typed draft is placed before the dictating Member	01.01.24
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	