

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

BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

I.T.A. No. 3299/DEL/2023
Assessment Year 2017-18

Talwar Medicos C/o Ahlawat Ashok & Associates CSC-6, A-1 Block Shopping Centre, Safdarjung Enclave, New Delhi.	Vs.	ITO Ward-50(5) New Delhi
TAN/PAN: AACFT5198C		
(Appellant)		(Respondent)

Appellant by:	Shri Umesh Singh, CA		
Respondent by:	Ms. Kirti Sankratyayan, Sr.DR		
Date of hearing:	01	01	2024
Date of pronouncement:	01	01	2024

ORDER

PER PRADIP KUMAR KEDIA-A.M. :

The captioned appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ('CIT(A)' in short) dated 27.10.2023 arising from the assessment order dated 27.12.2019 passed by the Assessing Officer (AO) under Section 144 of the Income Tax Act, 1961 (the Act) concerning AY 2017-18.

2. When the matter was called for hearing, the Id. counsel submitted that the assessment order dated 27.12.2019 is an *ex-parte* order under Section 144 of the Act whereby the total income of the assessee was determined at Rs.34,24,630/-. As against the best judgment assessment under Section 144 of the Act, the assessee preferred appeal before the CIT(A). However, the CIT(A)

declined to grant any relief to the assessee owing to the fact that the assessee was totally non co-operative in the assessment proceedings despite affording several opportunities. The Id. counsel submitted that the assessee is a small tax payer, a small time chemist and is not well versed with the tax matters. The CIT(A) has not rendered any decision on merits and has not admitted the evidences sought to be placed before him. The Id. counsel thus sought appropriate relief in the matter and urged for one more opportunity to prevent miscarriage of justice to such a small tax payer.

3. In my view, it was incumbent upon the CIT(A) to deal with grounds on merits under Section 250(6) of the Act after giving proper opportunity to the assessee. Needless to say, the CIT(A) plays the role of both adjudicating authority as well as the appellate authority. Thus, the CIT(A) ought to have addressed all the issues in consideration on merits in terms of Section 250(6) of the Act with a reasoned order. The order of the CIT(A) do not appear to comply such legal requirement. However in the same vein, I appreciate the concern of the Revenue on the lackadaisical and non co-operative attitude of the assessee towards the quantum proceedings.

4. In the totality of the circumstances, I consider it expedient to restore the matter back to the file of the AO in the larger interest of justice with a view to enable the assessee to avail opportunity once more. Needless to say, the assessee shall fully co-operate with the proceedings before AO without any demur failing which the AO shall be entitled to conclude the assessment proceedings in accordance with law. Hence, the order of the CIT(A) dated 27/10/2023 is set aside and all the issues raised in

the captioned appeal are restored back to the file of the AO for redetermination afresh in accordance with law after giving reasonable opportunity of hearing to assessee.

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

Order was pronounced in the open Court on 01/01/2024

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**

DATED: **/01/2024**

Prabhat