

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

**ITA No. 2610/DEL/2023
Assessment Year: 2017-18**

Chawala Enterprises, 189, Nandan Garden, W.K. Road, Meerut-250001. PAN- AABFC6542J	<u>Vs</u>	Income-tax Officer, Ward 1(2)(4), Meerut.
APPELLANT		RESPONDENT
Assessee represented by	None	
Department represented by	Sh. Vivek Kumar Upadhyay, Sr. DR	
Date of hearing	18.01.2024	
Date of pronouncement	25.01.2024	

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 24.07.2023, pertaining to the assessment year 2017-18. The assessee has raised following grounds of appeal:

“1. On the fact and in the circumstances of the case, the L'd Commissioner of Income Tax (Appeals) while passing the order on 24-07-2023 has erred in not appreciating the fact that assessee has uploaded the written submissions along with relevant annexures on 09-06-2023 before the National Faceless Appeal Centre on the Income Tax Portal and thus action of Commissioner of Income Tax (Appeals) in dismissing the appeal on the ground that no

submissions have been made is against the facts of the case. Observations made, inferences drawn and findings recorded in this regard are arbitrary, illegal and bad in law.

2. On the facts and in the circumstances of the case, the learned Commissioner of Income Tax (Appeals) has erred in sustaining the addition of Rs 48.03,000/- made U/s 69A of the Income Tax Act, 1961 by the AO, to income of assessee, without considering the timely submission and evidence submitted by the appellant before him. Observations made, inferences drawn and findings recorded in this regard are arbitrary, illegal and bad in law.

3. On the facts and in the circumstances of the case, the learned Commissioner of Income Tax (Appeals) has erred in sustaining the addition of Rs 9.99.382/- being the increase in unsecured loans in the impugned year as income of without considering the timely submission and evidence submitted by the appellant before him. Observations made, inferences drawn and findings recorded in this regard are arbitrary, illegal and bad in law.

4. On the facts and in the circumstances of the case, the learned Commissioner of Income Tax (Appeals) has erred in sustaining the addition made by the AO U/s 69A at Rs 17,60,000/- which represents the entire amount reflecting on the credit side of the assessee's bank account without considering the timely submission and evidence submitted by the appellant before him. Observations made, inferences drawn and findings recorded in this regard are arbitrary. illegal and bad in law.

5. The Ld Commissioner of Income Tax (Appeals) has erred in not computing & thereafter allowing the loss of (-) Rs 2.57,148/- (Returned loss (-) 12,56,530 + 9,99.382/- (Addition made by AO)=(-) 2,57,148- /to be carried forward to subsequent years.”

2. No one appeared on behalf of the assessee at the hearing despite issue of notice for hearing. We proceed to dispose of the assessee's appeal, ex parte, qua the assessee. We have heard learned DR and perused the material available on record.

3. Facts, in brief, are that for A.Y. 2017-18 the assessee filed its return of income on 31.03.2018 declaring loss of Rs. 12,56,530/-. The case was selected for scrutiny and the assessment was completed under best judgment assessment at Rs. 65,63,000/-. Against this the assessee preferred appeal before learned CIT(A), who dismissed the appeal. Now the assessee is in appeal before this Tribunal.

4. It is seen that the learned CIT(A) has dismissed the appeal, ex parte, qua the assessee, inter alia, by observing as under:

“However, the appellant has neither submitted any details in support of its contention nor sought adjournment. Considering that the appellant is no longer interested in prosecuting this appeal, the appeal is dismissed for want of prosecution without discussing the issues on merit”.

5. It is seen that in ground no. 1 of the grounds of appeal the assessee has specifically mentioned that it had uploaded the written submissions along with relevant annexures on 09-06-2023 before the National Faceless Appeal Centre on the Income Tax Portal. Since the learned CIT(A) has dismissed assessee's appeal ex parte, for want of prosecution, without going into the merits of the case and without considering the written submissions filed on behalf of the assessee, to subserve the interests of natural justice we set aside the impugned order of learned CIT(A) and restore the matter to the file of learned CIT(A) to decide the appeal afresh on merits after taking into account the material on record, of course, after

affording adequate opportunity of being heard to the assessee. We order accordingly.

6. In the result, assessee's appeal is allowed for statistical purposes only.

Order pronounced in open court on 25.01.2024.

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

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