

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

**BEFORE SH. SHAMIM YAHYA, ACCOUNTANT MEMBER**

ITA No.3070/DEL/2023  
(Assessment Year : 2017-18)

<b>Kapil Narula</b> C-499, Sabzi Mandi, Azadpur, Delhi – 110 033	Vs.	<b>ITO</b> Ward – 36(3) Delhi
<b>PAN No. ACCPN 6401 A</b> <b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Assessee by	Shri Amit Kaushik, Adv.
Revenue by	Shri Om Prakash, Sr. D.R.

Date of hearing:	29.01.2024
Date of Pronouncement:	02.02.2024

**PER SHAMIM YAHYA, AM :**

This appeal filed by the assessee is directed against the order of learned Commissioner of Income Tax (Appeals) – National Faceless Appeal Centre (NFAC), Delhi dated 30.08.2023 pertaining to Assessment Year 2017-18.

2. The ground of appeal filed by assessee, reads as under:

- “1. That the NFAC grossly erred in law and on the facts and circumstances of the case in dismissing the appeal of the Appellant by confirming the order dated 30.12.2019 passed by the Ld. Assessing Officer under section 143(3) of the Act.
2. That the NFAC grossly erred in law and on the facts and circumstances of the case in dismissing the appeal of the Appellant by confirming the order dated 30.12.2019 passed by the Ld. Assessing Officer under section 143(3) of the Act in violation of the principles of natural justice.
3. That the NFAC grossly erred in law and on the facts and circumstances of the case in dismissing the appeal of the Appellant by confirming the order dated 30.12.2019 passed by the Ld. Assessing Officer under section 143(3) of the Act without application of mind to the material on record.
4. That the NFAC grossly erred in law and on the facts and circumstances of the case in dismissing the appeal of the Appellant

*by confirming the order dated 30.12.2019 passed by the Ld. Assessing Officer under section 143(3) of the Act making addition of Rs. 3,25,800/- to the income of the Appellant on estimation basis.*

5. *That the NFAC erred in law and on the facts and circumstances of the case in not deleting the addition of Rs. 15,01,000/- to the income of the Appellant by the Ld. Assessing Officer under section 69A of the Act.*
6. *That the NFAC on facts and in law erred in not deleting the interest levied by the Ld. Assessing Officer under section 234B and 234C of the Act.*
7. *The appellant craves for leave to add, amend, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal.*
8. *That all the grounds are without prejudice to each other.”*

3. In this case, pursuant to assessment order, upon assessee's appeal the learned CIT(A) noted that assessee is not interested in prosecuting the appeal. Hence, he dismissed the appeal for non-prosecution. Against this order, assessee is in appeal before ITAT.

4. Learned Counsel for the assessee prayed for an opportunity before the learned CIT(A) to properly canvas the appeal.

5. Per contra, learned DR did not have any serious objection to this proposition.

6. Upon careful consideration, I find that learned CIT(A) has dismissed the appeal for non-prosecution in a summary manner without passing any order on the merits of the case. I find that section 251 of the Income Tax Act does not give any power to the CIT(A) to dismiss the appeal for non-prosecution. Accordingly, in the interest of justice, I remit the issue to the file of learned

CIT(A). Learned CIT(A) shall pass a speaking order after giving the assessee proper opportunity of being heard.

7. In the result, this appeal by the assessee stands allowed for statistical purposes.

**Order pronounced in the open court on 02.02.2024**

**Sd/-**

**(SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

Date:- 02.02.2024

*Priti Yadav, Sr. PS\**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI