

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

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

**ITA No.3559/DEL/2023
(Assessment Year: 2017-18)**

Novel Deal Private Limited,
Nangia Park,
Rajouri Garden,
Delhi – 110 027.

vs. ITO, Ward 18 (4),
New Delhi.

(PAN : AAACN2204L)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri R.S. Singhvi, CA
Shri Rajat Garg, CA

REVENUE BY : Shri Om Prakash, Sr. DR

Date of Hearing : 30.01.2024

Date of Order : 02.02.2024

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal by the assessee is directed against the order of the Id. CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated 10.10.2023 for the assessment year 2017-18.

2. Brief facts of the case are that the assessee is a private limited company engaged in the business of sale of liquor. The assessee filed return of income on 30.10.2017 declaring income of Rs.1,92,320/-. The case was selected for scrutiny on the ground that low income from TCS receipts – Liquor (TCS and profit in Part B-T/Part A-P & L of ITR) whether income

from Liquor business has been correctly offered for tax. The case was assessed u/s 143 (3) of the Income-tax Act, 1961 (for short 'the Act') assessing income at Rs.13,95,150/-. The AO made the addition u/s 68 of the Act on account of unconfirmed sundry credits of Rs.3,35,718/-, excess cash deposits of Rs.1,87,110/-, rental income of Rs.3,30,000/- and commission expenses of Rs.3,50,000/-.

3. Upon assessee's appeal, in this regard, ld. CIT (A) noted that hearing notices to the assessee have not been complied with, hence citing various decisions, ld. CIT (A) dismissed the appeal for non-prosecution. Ld. CIT (A) held that in absence of any response from the assessee, he found no reason for any change in the order of AO.

4. Against this order, assessee has filed appeal before me. I have heard both the parties and perused the records.

5. Ld. Counsel of the assessee prayed that an opportunity may be granted to the assessee before the ld. CIT (A) to properly canvass the appeal. Per contra, ld. DR for the Revenue did not have any serious objection to this proposition.

6. Upon careful consideration, I find that ld. CIT (A) has virtually dismissed the appeal for non-prosecution. Section 251 of the Income-tax Act, 1961 (for short 'the Act') does not empower the ld. CIT (A) to pass

such order. Hence, in the interest of justice, I remit the issue to the file of Id. CIT (A). Ld. CIT (A) shall consider the issue afresh after giving adequate opportunity of being heard to the assessee.

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

Order pronounced in the open court on this 2nd day of February, 2024.

**Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 2nd day of February, 2024
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A).
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**