

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

**BEFORE SH. SAKTIJIT DEY, VICE PRESIDENT
AND
SH. N. K. BILLAIYA, ACCOUNTANT MEMBER**

ITA No.2912 & 2913/Del/2023
Assessment Year: 2016-17 & 2017-18

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| Nikhil Madan Legal heir of Late Naveen Madan 19/14, East Punjabi Bagh, New Delhi-110026 PAN No.AAWPM1160H | Vs. | DCIT Central Circle- 28 New Delhi |
| (APPELLANT) | | (RESPONDENT) |

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|---------------|---|
| Appellant by | Sh. Ashok Khandewal |
| Respondent by | Sh. Subhra Jyoti Chakraborty, CIT DR |

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|------------------------|------------|
| Date of hearing: | 31/01/2024 |
| Date of Pronouncement: | 31/01/2024 |

ORDER

PER N. K. BILLAIYA, AM:

ITA No.2912/Del/2023 and 2913/Del/2023 are two separate appeals by the assessee preferred against two separate orders of CIT(A)-27, New Delhi dated 18.08.2023 pertaining to A.Y. 2016-17 and 2017-18.

2. Since common grievance is involved in both the appeals, therefore, they were heard together and are disposed of by this common order for the sake of convenience and brevity.

3. The common grievance is that the assessment has been framed without affording any opportunity to the assessee to explain the material used for framing the assessment.

4. Before us the Counsel vehemently stated that both the lower authorities did not provide the copy of the alleged incriminating material which were used against the assessee for framing the impugned orders. The Counsel pleaded for restoring the issue to the files of the AO.

5. We have carefully considered the orders of the authorities below. We find that on three separate occasions the assessee has categorically pleaded for clear readable and complete copy of back up of mobile phones taken during the search proceedings, such request can be found from the submissions placed at pages – 4, 28 and 91 of the paper book.

6. We are of the considered view that the assessee has been denied proper opportunity to explain the case, therefore, in the interest of justice and fair play we restore the appeal to the files of the AO. The AO is directed to afford a reasonable and adequate

opportunity of being heard to the assessee after providing all the material which he intend to use against the assessee.

7. In the result, the appeals of the assessee are allowed for statistical purpose.

8. Decision announced in the open court on 31.01.2024.

Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

NEHA

Date:- .01.2024

Copy forwarded to:

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

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

ASSISTANT REGISTRAR
NEW DELHI