

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI
BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 952/Del/2023
(Assessment Year: 2017-18)**

GDK Jewels Pvt. Ltd, 57, Ring Road, Lajpat Nagar-3, New Delhi (Appellant)	Vs.	ACIT, Circle-10(1), Delhi (Respondent)
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PAN: AAACG0095Q

Assessee by :	Shri Pulkit Saini, Adv
Revenue by:	Shri Vivek Kumar Upadhyay, Sr. DR
Date of Hearing	07/02/2024
Date of pronouncement	07/02/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.952/Del/2023 for AY 2017-18, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. CIT(A)', in short] in Appeal No. ITBA/NFAC/S/250/2022-23/1046016993(1) dated 27.09.2022 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 29.12.2019 by the Assessing Officer, DCIT, Circle-10(1), Delhi (hereinafter referred to as 'ld. AO').

2. The assessee has raised the following grounds of appeal:-

"1. That the order passed by Ld. CIT(A) sustaining the addition of Rs. 8,87,81,056/- is bad in law.

2. That on the facts and circumstances of the case, the Ld. AO has grossly erred on facts as well as in law in assessing the income at Rs. 12,71,86,346/- as against the returned income of Rs. 3,84,05,290/-.

3. *That the Ld. AO has erred in making arbitrary addition on account of cash deposit of Rs. 8,84,75,560/- u/s 68 of the Act, alleging the justification of the appellant to be non-satisfactory. The Ld. AO did not consider the submission made by the appellant that the cash was deposited out of the cash in hand on 08.11.2016 and the source of cash in hand as on 08.11.2016 was out of cash sales made by the appellant, which is bad in law.*
 4. *That in the facts and circumstances of the case and in law, the Ld. AO has erred in not appreciating the documentary and primary evidences produced by the appellant i.e. copies of invoice and sales registers, while making addition u/s 68 of the Act.*
 5. *That the Ld. AO has erred in making a disallowance of Rs.82,718/- u/s 14A of the Act without considering and appreciating the submissions made by the appellant.*
 6. *That the Ld. AO has erred in making a disallowances of the employees contribution to EPF and ESI amounting to Rs.2,22,778/- alleging that the payment was not made by the appellant in accordance with the provisions u/s 36(1)(va) of the Act.*
 7. *That the Ld. CIT(A) sustained the addition of Rs. 8,87,81,056/- without providing any opportunity of being heard to the appellant which is against the law of natural justice.*
 8. *That the above grounds are without prejudice to each other.*
 9. *That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing."*
3. We have heard the rival submissions and perused the material available on record. The Id AR primarily submitted that sufficient opportunities were not provided by the Id CIT(A) and he prayed for one more opportunity to be given to the assessee for presenting its case and provide all the necessary details before the Id CIT(A) in support of the contentions of the assessee. When this was put across to Id DR, the Id DR vehemently submitted that the Id CIT(A) had passed very elaborate order and objected to restoration of appeal to the file of Id. CIT(A). But we find from the order of the Id CIT(A) that it was passed ex parte based on the findings recorded in the assessment order. Hence, in the interest of substantial justice and fair play, we deem it fit and appropriate to restore this entire appeal

to the file of the Id CIT(A) for de novo adjudication in accordance with law. Needless to mention that the assessee be given reasonable opportunity of being heard. The assessee is at liberty to furnish further evidences, if any, in support of its contentions. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 07/02/2024.

-Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 07/02/2024
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi