

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC” NEW DELHI**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 3872/Del/2023

Assessment Year: 2012-13

(Through video conferencing)

Dharmender Saini, S/o Sh. Dal Chand, vill. Unchagaon, Ballabgarh, Faridabad-121004	<u>Vs</u>	ITO, Ward-1(2), Faridabad.
PAN- COPPS7331B		
APPELLANT		RESPONDENT
Assessee represented by	None	
Department represented by	Shri Om Parkash, Sr. DR	
Date of hearing	20.02.2024	
Date of pronouncement	20.02.2024	

ORDER

PER KUL BHARAT, JM:

This appeal, preferred by the assessee, is directed against the order of the learned CIT (A), National Faceless Appeal Centre (NFAC), Delhi, dated 23.01.2023, pertaining to the assessment year 2012-13. The assessee has raised following grounds of appeal:

“1) That order passed by the Learned Commissioner of Income Tax (Appeals) stands flawed both in the eye of the law and with respect to the

facts and circumstances of the case. The Ld. CIT (A) breached the Principle of Natural Justice by denying the Appellant the opportunity to be heard. The Ld. CIT (A) failed to take into account the adjournment sought by the Appellant on 21.11.2023 which was also the last date to submit the response for Notice U/s 250 of the Act. Despite this, the Ld. CIT (A) issued the Order U/s 250 on 23/11 / 2023

2) That having regard to facts and circumstances of the case, the learned CIT(A) has erred in law and facts in confirming the addition of Rs. 20,50,000/- u / s 69A of Income Tax Act 1961 on account of cash deposits on different dates. Cash deposits were originated from prior cash withdrawals, which were initially sourced from funds received from the Land Acquisition Officer, on account of the compulsory acquisition of his land. These funds represent a clear and lawful origin of the Appellant's financial resources used for the cash deposits in question.

3) That having regard to the facts and circumstances of the case, the Ld. A.O has erred in issuing the final assessment order U/s 144 of the Income Tax Act, 1961 without quoting the mandatory documentation identification number ('DIN') in conformity with Para-2 and Para-3 of CBDT Circular No.19/2019 dated 14th August 2019 and thus the said final assessment order deserves to be held as invalid bad in law and void-ab-initio. Reliance is placed on the judgement of the Hon'ble Delhi High Court in the case of The Commissioner of Income Tax Vs Brandix Mauritius Holdings Ltd dated 30.05.2023. 1149 taxmann.com 238 (Delhi) (HC)]

4) That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”

2. Facts, in brief, are that on the basis of AIR information regarding cash deposited by the assessee amounting to Rs. 20,50,000/- in the bank account maintained with Oriental Bank of Commerce, the case was reopened for assessment. In response to the notice issued u/s 148 of the Income-tax Act (hereinafter referred to as the “Act”), no one attended the proceedings. Therefore,

the AO passed ex parte order u/s 144 read with section 147 of the Act. Thereby he made addition of the amount deposited in the bank account. Aggrieved against this the assessee preferred appeal before learned CIT(A). Before learned CIT(A) also there was no representation on behalf of the assessee. The learned CIT(A) dismissed the appeal by affirming the action of the AO and. Aggrieved against this now the assessee is in appeal before this Tribunal.

3. At the time of hearing no one attended the proceedings on behalf of the assessee. I have heard learned DR and perused the material available on record.

4. Learned DR supported the orders of the authorities below.

5. It is noticed that before lower authorities there was no effective representation on behalf of the assessee. The assessee has taken various grounds including the legal ground of non-mentioning of the DIN. The learned CIT(A) has noted that a reply was filed by the assessee but he did not advert on merit of the case. Therefore, looking to the facts of the present case I am of the considered view that the assessee should have been given opportunity for making effective representation. Hence, the impugned order is set aside and the grounds are restored to the file of learned CIT(A) to decide the same afresh after affording adequate opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.

6. Appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court on 20th February, 2024.

**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**