

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC" NEW DELHI**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 3841/Del/2023

Assessment Year: 2012-13

(Through video conferencing)

Hawa Singh S/o Sh. Balbir Singh, H. No. 647, Ward No. 3, Gali No. 7, Shankar Garden, Line Par, Near Raju Atta Chakki, Bahadurgarh-124507 PAN- FFAPS5911C	<u>Vs</u>	ITO, Ward-2, Rohtak.
APPELLANT		RESPONDENT
Assessee represented by	Shri Navin Gupta, Adv.	
Department represented by	Shri Om Parkash, Sr. DR	
Date of hearing	19.02.2024	
Date of pronouncement	21.02.2024	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned CIT (A), National Faceless Appeal Centre (NFAC), Delhi, dated 15.12.2023, pertaining to the assessment year 201213. The assessee has raised following grounds of appeal:

- “1. That the order of the Ld. CIT(A) is against law and facts.
2. That the Ld. CIT (A) erred in dismissing the appeal of the appellant by passing an ex-parte order for non appearance, although no proper opportunity of hearing was given by the Ld. CIT(A) to the appellant.
3. That the Ld. CIT(A) erred in passing an ex-parte order against the appellant, although Ld. CIT (A) has no power to pass an ex-parte order and is bound to decide the appeal on merits.
4. That the Ld. CIT (A) erred in confirming the assessment order passed by the Ld. AO although the notice u/s 148 issued by the Ld. AO is invalid, illegal and without jurisdiction.
5. That the Ld. CIT (A) erred in confirming the assessment order passed by the Ld. AO although the Ld. AO erred in not serving a copy of reasons recorded u/s 148 to the appellant.
6. That the Ld. CIT (A) erred in dismissing the appeal of the appellant and thereby confirming the assessment order passed by the Ld. AO although the Ld. AO erred in making addition of Rs. 15,00,000/- to the total income of the appellant by not accepting the source of amount received from Sh. Kharati Lal.
7. That the Ld. CIT (A) erred in dismissing the appeal of the appellant and thereby confirming the assessment order passed by the Ld. AO although the Ld. AO erred in making addition of Rs. 6,00,000/- to the total income of the appellant by not accepting the source of amount received from Sh. Bijender.”

2. Facts, in brief, are that the AO noticed that in F.Y. 2011-12 relevant to A.Y. 2012-13 the assessee had made cash deposits of Rs. 36,14,000/-. In response to statutory notices the assessee filed his return of income on 23.05.2019 declaring total income of Rs. 1,69,780/-. Rejecting the source of cash deposit explained by the assessee, the AO completed the assessment vide order dated 17.12.2019 u/s 143(3)/147 of the Income-tax Act, 1961 at Rs. 22,69,780/- by making addition of

Rs. 21,00,000/- to the returned income. Aggrieved against it the assessee preferred appeal before learned CIT(A), who dismissed the appeal by affirming the action of the AO. Now the assessee is in appeal before this Tribunal.

3. Learned counsel for the assessee submitted that the AO had made addition on account of cash deposit by rejecting the explanation offered by the assessee. However, in appeal the learned CIT(A) without adverting on merits has decided the issue against the assessee, simply confirming the action of the AO, which is contrary to the settled principles of law. He, therefore, prayed that the matter may be restored to the file of learned CIT(A) to decide the matter after considering the submissions filed by the assessee.

4. On the other hand, learned DR opposed the submissions and supported the orders of the authorities below.

5. We have heard rival submissions and perused the material on record. We find force into the contention of the assessee that assessee had duly filed submissions before the AO, which were not found tenable by the AO, resulting into the impugned. In appeal the learned CIT(A) did not advert to the merit of the case and dismissed the appeal. Considering the facts and circumstances of the case, in order to subserve the interests of natural justice and to be fair to both the parties, we set aside the impugned order and restore the grounds to the file of learned

CIT(A) for decision on merits, in accordance with law, after affording adequate opportunity of being heard to the assessee. We order accordingly.

6. Consequently, assessee's appeal stands allowed for statistical purposes.

Order pronounced in open court on 21st 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

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