

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.2513/Del/2023  
[Assessment Year : 2017-18]**

Manan Jain, Plot No.12, KH 9/8, 9/13/2, Loni Road, Jawahar Nagar, Delhi-110094. <b>PAN-BFKPJ8480D</b>	vs	ITO, Ward -59(4), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Anshul Kumar, CA & Shri Satish Kumar, CA	
<b>Respondent by</b>	Shri Om Parkash, Sr.DR	
<b>Date of Hearing</b>	21.02.2024	
<b>Date of Pronouncement</b>	29.02.2024	

**ORDER**

**PER KUL BHARAT, JM :**

The present appeal filed by the assessee is directed against the order passed by Ld.CIT(A), National Faceless Appeal Centre (“NFAC”), Delhi dated 10.07.2023 for the assessment year 2017-18.

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

1. *“That on the facts and in the circumstances of the case and in law, the order passed by the Ld. Commissioner of Income Tax, National Faceless Appeal Centre, New Delhi [‘the Ld. CIT(A)] is bad in law.*
2. *That on the facts and in the circumstances of the case and in law, the impugned order of assessment has been framed without granting fair and meaningful opportunity of being heard in respect of the additional facts being used by the Ld. Income Tax Officer Ward 59(4), Delhi (‘the Ld. AO’) in the assessment proceedings against the Appellant and, as such, the same is contrary to principles of natural*

*justice, apart from being without jurisdiction, and that the Ld. CIT(A) has erred in dismissing the plea of the Appellant in this regard.*

3. *That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in upholding an addition of INR 3,42,000 under section 68/69A read with section 115BBE of the Income-tax Act, 1961 ('the Act').*
4. *That on the fact and in the circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the addition of INR 1,00,000 claimed under Chapter VI-A of the Act.*
5. *That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the ad-hoc disallowance of business expenditure amounting to INR 37,851.”*

3. Facts giving rise to the present appeal are that the assessee filed return of income through e-mode on 30.10.2017, declaring total income of INR 2,10,760/-. The case of the assessee was selected for scrutiny assessment. The Assessing Officer (“AO”) issued statutory notices that remained uncomplied on behalf of the assessee. The AO noticed that the assessee had deposited INR 31,98,000/- in cash during the Financial Year 2016-17 more particularly, during the demonetization period. Therefore, the AO proceeded to frame assessment u/s 143(3) of the Income Tax Act, 1961 (“the Act”) vide order dated 29.12.2019 and made addition of the amount and thereby, he assessed the income of the assessee at INR 35,46,610/-.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, partly allowed the appeal and deleted the addition to the extent of INR 28,56,000/- and rest of the additions were sustained.

5. **Ground No.1** raised by the assessee is general in nature, needs no separate adjudication hence, dismissed.

6. **Ground No.2** raised by the assessee is against not providing fair opportunity of being heard to the assessee.

7. Ld. Counsel for the assessee submitted that Ld.CIT(A) did not consider the submission of the assessee.

8. On the other hand, Ld. Sr. DR for the Revenue opposed these submissions.

9. I have heard Ld. Authorized Representatives of the parties and perused the material available on record. It is the contention of the assessee that Ld.CIT(A) did not consider the submissions, made during the course of hearing. This objection of the assessee will be considered while disposing of the other grounds of appeal. Therefore, this ground needs no separate adjudication hence, dismissed.

10. **Ground No.3** raised by the assessee is against the sustaining of addition of INR 3,42,000/- u/s 68/69A r.w.s. 115BBE of the Act.

11. Ld. Counsel for the assessee submitted that Ld.CIT(A) without considering the submissions and giving opportunity to explain the source of cash deposit of INR 3,42,000/-, sustained the impugned addition. He contended that the assessee had filed the relevant documents before the AO and Ld.CIT(A) without looking to the evidence, has sustained the addition.

12. On the other hand, Ld. Sr. DR for the Revenue opposed these submissions and supported the assessment order and findings of Ld.CIT(A). He submitted that the assessee was required to prove the source of cash deposits. Hence, there is no infirmity into the order of the lower authorities.

13. I have heard Ld. Authorized Representatives of the parties and perused the material available on record and gone through the orders of the authorities below. I find that the Ld.CIT(A) has given a finding that the assessee did not file any documentary evidence regarding cash deposits which is a subject matter of the impugned addition. However, it is the contention of the assessee that the assessee had provided documentary evidence to the Assessing Authority. This fact is required to be verified at the end of AO if the claim of the assessee is found to be correct, the AO would delete the impugned addition. Hence, this issue is restored to the file of AO for decision afresh. Ground No.3 raised by the assessee is accordingly, allowed for statistical purposes.

14. **Ground No.4** raised by the assessee is against the disallowance of deduction claimed under Chapter VI-A of the Act.

15. Ld. Counsel for the assessee submitted that the lower authorities have grossly erred in making and sustaining the addition as the deduction is allowable under Chapter VI-A of the Act.

16. On the other hand, Ld. Sr. DR for the Revenue opposed these submissions and supported the orders of the authorities below. He submitted that the assessee is required to prove that the deduction under Chapter VI-A of the Act, is allowable to the assessee.

17. I have heard Ld. Authorized Representatives of the parties and perused the material available on record and gone through the orders of the authorities below. The AO rejected the claim on the basis that the assessee failed to furnish any supporting evidences. However, it is contended by the assessee that the amount was deposited in PPF Account and hence, he was entitled for deduction u/s 80C of the Act. Having considering the submissions of the assessee, I am of the view that this contention needs verification at the end of AO and the AO would verify the correctness of the claim of the assessee that the amount was deposited in PPF Account if it was found that amount was deposited in the PPF Account of the assessee during the Financial year, the AO would delete the addition.

18. **Ground No.5** raised by the assessee is against the upholding of adhoc disallowance of business expenditure amounting to INR 37,851/-.

19. Ld. Counsel for the assessee submitted that the lower authorities have grossly erred in making and sustaining the addition. The AO has not given any specific finding as to which expenditure was found to be not related to the business of the assessee.

20. On the other hand, Ld. Sr. DR for the Revenue opposed these submissions and supported the orders of the authorities below.

21. I have heard Ld. Authorized Representatives of the parties and perused the material available on record and gone through the orders of the authorities below. There is no dispute that the impugned addition is based on adhoc disallowance of the expenditure. It is seen from the assessment order that the

AO had made adhoc disallowance @ 25% on the basis that no explanation was offered by the assessee. I find that there is no basis of adopting 25% expenditure being not related to the business of the assessee. Since, the impugned addition is based upon merely, surmises and without giving clear finding, the impugned addition is hereby deleted. Ground No.5 raised by the assessee is accordingly, allowed.

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

Order pronounced in the open Court on 29<sup>th</sup> February, 2024.

**Sd/-**  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI