

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B': NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER**

**ITA No.2263/Del/2023
(Assessment Year: 2014-15)**

**ITA No.2272/Del/2023
(Assessment Year: 2014-15)**

Deepak Enterprises,
95A/1, Gautam Nagar,
New Delhi – 110 016.

vs.

JCIT, Range 32,
New Delhi.

(PAN : AAefd7578G)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri S.N. Bhargva, Advocate
Shri Nikhil Bhargva, Advocate
REVENUE BY : Shri Vivek Kumar Upadhyay, Sr. DR

Date of Hearing : 28.02.2024
Date of Order : 04.03.2024

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

These are appeals by the assessee against the respective orders of the Id. CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated 12.06.2023 for the assessment year 2014-15 confirming the quantum addition and penalty sustenance by the Id. CIT (A).

2. Grounds of appeal taken by the assessee read as under :-

“ITA No.2263/Del/2023 (QUANTUM APPEAL)

1. That Ld. JCIT has erred in law as much as on the facts of the case by arbitrary disallowing 100 percent expenses incurred on account of Research & Development of Rs.7,57,500/- under section 37(1) of the Act, without giving the opportunity of being heard.

2. That Ld. JCIT has erred in law as much as on the facts of the case by arbitrary disallowing expenses of Rs.8,024/- incurred on account of additional sales tax/fee under section 37(1) of the act, without giving the opportunity of being heard to the appellant. However, the claim made by the appellant for the said expenses was bonafide.

3. That Ld. JCIT has erred in law as much as on the facts of the case by arbitrary disallowing the following expenses out of the total expenses of respective head as personal expenses under section 37(1) of the act, though there is no personal usage made out of the said expenses.

S.No.	Name of expenses Head	Total Expenses (Rs.)	Disallowed (Rs.)
1.	Vehicle running & maintenance	Rs. 3,21,220/-	32,122/-
2.	Depreciation on vehicles	Rs. 1,97,023/-	19,702/-
3.	Insurance of vehicle	Rs. 37,580/-	3,758/-
4.	Telephone	Rs. 4,89,802/-	48,980/-
5.	Total	Rs.10,45,625/-	1,04,562/-

It is therefore kindly prayed that the aforesaid unwarranted disallowance under section 37(1) of the act of Rs.8,70,086/- may kindly be deleted after providing an opportunity of being heard to the appellant.”

ITA No.2272/Del/2023 (PENALTY APPEAL)

“(a) That Id. ACIT has erred in law as much as on the facts of the case by arbitrary levied the penalty under section 271(1)(c) of the Income Tax Act.

(b) That the appellant has filed an appeal against order passed under section 143(3) of the act against the addition made by the ACIT.

(c) That appellant has not filed inaccurate particular of income before Id. ACIT in the course of hearing of the case.”

3. At the outset, Id. Counsel for the assessee submitted that assessee has not been given an opportunity to properly canvass the case, hence he prayed that an opportunity may be granted to the assessee. He further submitted that Id. CIT (A) has kept the order pending for six year and then passed an order without giving an opportunity.

4. On the other hand, ld. DR for the Revenue did not have any serious objection if the assessee is given one opportunity to canvass the appeal.
5. Upon careful consideration, we are of the considered view that interest of justice would be served if the appeals are set aside to the file of ld. CIT(A). Ld. CIT (A) shall give the assessee an opportunity of being heard and thereafter pass an order as per law.
6. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on this 4th day of March, 2024.

**Sd/-
(CHALLA NAGENDRA PRASAD)
JUDICIAL MEMBER**

**sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 4th day of March, 2024
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Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(Appeals)
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**