

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.2778/Del/2023
(Assessment Year: 2018-19)
Anil Dhingra, Vs. ITO,
RT-12 Royal Ton Ward-30(1),
Tower, DLF Phase-5, New Delhi
Gurgaon,
(Appellant) (Respondent)
PAN: AAPPD9828G

Assessee by : Shri Anup Mehta, CA
Shri Nirbhay Mehta, Adv
Revenue by: Shri Kanv Bali, Sr. DR
Date of Hearing 06/03/2024
Date of pronouncement 11/03/2024

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.2778/Del/2023 AY 2018-19, 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/250/2023-24/1055034298(1) dated 10.08.2023 against the order of assessment passed under section 143(3) read with sections 143(3A) & 143(3B)u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 10.03.2021 by the Assessing Officer, NeAC, Delhi (hereinafter referred to as 'ld. AO').

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

"1. That on the facts & circumstances of the case and in the law the order passed by Ld. CIT (A) National Faceless Appeal Centre (NFAC) (hereinafter referred to as CIT(A)) is contrary to the facts and bad in law.

2.2. The CIT (A) was not justified in facts and circumstances of the case and in law in sustaining addition of Rs. 1,37,02,000/- made by the Assessing Officer under section 68 of the I. T Act. 2.1 That the CIT (A) was not justified in confirming the action of the AO for making the addition of Rs.1,37,02,000/- by holding in the assessment order that the assessee had failed to prove identity, creditworthiness and genuinenity of unsecured loans by ignoring the fact that alleged unsecured loans are taken from family members of the and sufficient documentary evidences have been filed to the AO to prove the genuineness and creditworthiness of lenders parties. a) Gunjan Dhingra (PAN ALQPD4880N) Rs.1,11,72,000/- b) Jatin Dhingra (PAN AOAPD4407N) Rs.22,00,000/- c) Rajesh Sahni (PAN ACXPS5313B) Rs.1,00,000/- d) Rita Dhingra (PAN ADPPD1634F) Rs.2,30,000/-

2.2 That the CIT-A was also not justified in sustaining the addition by ignoring the fact that before making the impugned addition u/s 68 of the IT Act, no show cause notice has been issued by the assessing officer.

3. That the CIT (A) was not justified in passing an ex-party appellate order without providing the opportunity to the appellant to file submissions.

4. The CIT (A) has also erred in ignoring the submission made in statement of facts that the loan of Rs.1,11,72,000/- taken from Gunjan Dhingra, daughter of the appellant was given by her out of the mortgage loan taken by Gunjan Dhingra from Corporation Bank for which sufficient evidences and sanction letter of the bank were filed during the course of assessment proceedings."

3. Ground No. 2 raised by the assessee is challenging the addition made u/s 68 of the Act on merits in respect of unsecured loan received from family members in the sum of Rs. 1,37,02,000/-. The ground No. 3 raised by the assessee states that no show cause notice was issued by the Id AO before proceedings to frame the addition u/s 68 of the Act in the assessment proceedings.

4. We have heard the rival submissions and perused the material available on record. At the outset, since no show cause notice was issued by the Id AO during the course of assessment proceeding before proceeding to frame the addition u/s 68 of the Act, the Id AR before us fairly stated that the appeal be restored to the file of the Id AO for de novo adjudication which was fairly agreed by the Id DR.

Considering the same, in the interest of justice and fairplay to both the parties, we deem it fit and appropriate to restore this entire appeal to the file of the Id AO for de novo adjudication in accordance with law qua the issue in dispute before us.

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

Order pronounced in the open court on 11/03/2024.

-Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:11/03/2024
A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi