

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

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

**ITA No.1751/DEL/2022
(Assessment Year: 2011-12)**

SPT Infotech P. Ltd.,
D-15, Pamposh Enclave,
Greater Kailash – 1,
New Delhi – 110 048.

vs.

ACIT, Central Circle 30,
New Delhi.

(PAN : AAGCS3886B)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri S. Krishanan, Advocate
REVENUE BY : Shri Dharamvir Singh, CIT DR

Date of Hearing : 11.03.2024
Date of Order : 13.03.2024

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal by the assessee is directed against the order of the Id. CIT (Appeals)-30, New Delhi dated 30.05.2022 for the assessment year 2011-12.

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

- “1. The order of the Id. CIT(A) is wrong on facts and bad in law, and therefore, it is illegal.
2. The Id. CIT (A) erred in upholding that the assessment u/s 143(3) r.w.s. 153A already completed after making detailed scrutiny has been reopened merely on change of opinion, which is bad in law.

3. The Id. CIT(A) erred in upholding that the show cause notice dated 24.12.2018 is not valid due to lack of meeting the principle of natural justice.

4. Without prejudice to the above, the Ld CIT erred in upholding the addition of Rs.42,00,00,000/-.

5. The Ld. CIT (A) erred in upholding the addition u/s 68 without appreciating that the modus operandi relied extensively in impugned orders is never co-related even remotely to the facts of the present case as there is no iota of evidence brought on record which can show that appellant inducted accommodation entries at the time of receiving share capital.

6. The Id. CIT(A) erred in upholding the addition of Rs. 42,00,00,000/-, under section 68 of the IT Act, 1961 in spite of the fact that all details were already submitted during the original assessment and the Ld AO has made the assessment on mere change the opinion;

7. All these grounds are without prejudice to one another.”

3. Although assessee has raised various grounds, at the outset, Id. Counsel for the assessee submitted that assessee was not presented before the Id. CIT (A) who has noted that notices were sent but assessee did not respond and he has passed a cryptic order reproducing the AO's order. Ld. Counsel for the assessee pleaded that though assessee had received email notices but assessee's representative CA at that time had left the job and joined You Tube company. In this regard, assessee has also filed affidavit. Ld. Counsel for the assessee prayed that an opportunity may be provided before the Id. CIT (A) to canvass the appeal properly.

4. We have heard both the parties and perused the records. In our considered opinion, interest of justice would be served if the issue is remitted to ld. CIT (A). Ld. CIT (A) is directed to consider the issue afresh after giving the assessee an opportunity of being heard.

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

Order pronounced in the open court on this 13th day of March, 2024.

**Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER**

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

**Dated the 13th day of March, 2024
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)-30, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**