

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 119/DEL/2024**  
**Assessment Year: 2016-17**

Chander Mohan, A-8, 2 <sup>nd</sup> Floor Mansarover Garden, Ramesh Nagar, Delhi-110015.	<u>Vs</u>	Income-tax Officer, Ward-49(1), Delhi.
<b>PAN- AAJPM1341B</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	Shri Rakesh Jain, Adv.	
<b>Department represented by</b>	Shri Om Parkash, Sr. DR	
<b>Date of hearing</b>	19.03.2024	
<b>Date of pronouncement</b>	19.03.2024	

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 08.12.2023, pertaining to the assessment year 2016-17. The assessee has raised following grounds of appeal:

- “1. Because the action for initiation, continuation and conclusion of assessment proceedings u/s 144 at an amount of Rs 43,74,780/- is being challenged on facts and law.
2. Because the action is being challenged on facts and law for passing ex-parte order overlooking that assessee has filed the submissions before CIT(A)-19, Delhi during Physical proceedings on dt. 13.03.2020. However, when case transferred from (IT(A) 19, Delhi to Faceless, assessee was not aware of any proceedings pending on E-portal. Thus, the assessment order being passed is in Violation of the principle of natural justice and without giving adequate time and opportunity to the appellant to present the case.
3. Because the action is being challenged on facts & law for making addition of Rs 25,80,160/- other than the issues for which assessee's case has been selected for, limited scrutiny ie whether the cash deposit has been made from disclosed sources overlooking the board instruction in respect of Limited scrutiny. Therefore assessment order passed in violation of Board's instruction, which are binding upon the AO & hence assessment order passed is bad in law & void-ab-initio.”
4. Because the action is being challenged on facts and law for making addition of Rs. 25,73,200/- (20 percent of turnover amounting Rs. 21426502/-) is unreasonable without application of mind and merely relying upon available bank statements only and additionally quantum of addition is disputed
5. Because the action is being challenged on facts and law for making an addition of Rs. 6.960/- on account of interest income
6. Because the action is being challenged on facts and law for levying penalty / 2718 for total turnover exceeding limit for getting accounts audited on presumption.
7. For any consequential relief and or legal claim arising out of this appeal and for any addition, deletion, amendment and modification in the grounds of appeal before the disposal of the sure in the interest of substantial justice to the assessee.”

2. Facts of the case, in brief, are that for A.Y. 2016-17 the assessee filed his return of income declaring income of Rs. 17,54,620/-. The case was selected for limited scrutiny under CASS. It is seen from the assessment order that the assessee did not comply with the statutory notices issued by the AO. Accordingly, the AO proceeded to complete the assessment u/s 144 of the Income-tax Act, 1961 (the 'Act') and vide order dated 20.12.2018 assessed the assessee's income at Rs. 43,34,780/- as against returned income of Rs. 17,54,620/-, by making addition of Rs. 25,73,200/- by applying profit of 20% on undisclosed turnover of Rs. 1,28,66,002/-; and addition of Rs. 6,960/- on account of undisclosed bank interest. Aggrieved against this the assessee preferred appeal to the learned CIT(A), who vide impugned order dated 08.12.2023 affirmed the action of the AO and dismissed the assessee's appeal. Aggrieved against this, now the assessee is in appeal before this Tribunal.

3. I have heard rival submissions and perused the material available on record. It is seen that before learned CIT(A) as well as before AO there was no representation on behalf of the assessee. The learned CIT(A) in his order has not discussed the issue on merit and dismissed the appeal by observing that the assessee is not interested in prosecuting the appeal. Therefore, in order to subserve the interest of natural justice and to provide an opportunity to the assessee to

represent his case, I set aside the orders of authorities below and restore the matter to the file of learned AO for assessment denovo after affording reasonable opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.

4. Appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court on 19<sup>th</sup> March, 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**