

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

ITA No. 2716/Del/2023
(Assessment Year: 2016-17)
Industrial Security and Vs. ACIT,
Management Services, Circle-5(1)(1),
655, Sector-37, GB GB Nagar, Noida
Nagar, Noida, UP
(Appellant) (Respondent)
PAN: AABFI4657R

Assessee by : Mr. Supriya Mehta, CA
Revenue by: Shri Sandip Kumar Mishra, Sr. DR

Date of Hearing 13/03/2024
Date of pronouncement 19/03/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.2716/Del/2023 for AY 2016-17, 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/250/2023-24/1054741192(1) dated 31.07.2023 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 12.12.2018 by the Assessing Officer, ACIT, Circle-5(1)(1), GB Nagar (hereinafter referred to as 'ld. AO').

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

"1. On the facts and circumstances of the case the order passed by the learned Commissioner Income Tax (Appeals), Income Tax Department ((CIT(A), ITD) is bad, both in the eye of law and on the facts

2. On the facts and circumstances of the case, the order passed by the learned Commissioner Income Tax (Appeals), Income Tax Department ((CIT(A), ITD) is perverse and invalid and has been passed without application of mind.

3. *On the facts and circumstances of the case, the learned CIT(A), ITD has erred both on facts and in law in passing the order without providing reasonable opportunity of being heard to the assessee in clear violation of the principle of natural justice*

4. *On the facts and circumstances of the case, the learned CIT(A), IID has erred both on facts and in law in passing the order in dismissing the appeal of the assessee without adjudicating the grounds raised by the assessee*

5. *On the facts and circumstances of the case, the learned CIT(A), ITD has erred both on facts and in law in passing the order in dismissing the appeal of the assessee without adjudicating the issue of adhoc disallowance of Rs. 7,96,74,124/- in respect of 1/3 of total of direct and indirect expenses claimed by the assessee.*

6. *On the facts and circumstances of the case, the learned CIT(A), ITD has erred both on facts and in law in dismissing the appeal of the assessee despite the fact that the disallowance has been made by the AO in an arbitrary manner on an adhoc estimation basis without bringing any adverse material on record and the same is unsustainable.*

7. *The appellant craves leave to add, amend or alter any of the grounds of appeal."*

3. The assessee has filed its return of income in the capacity of a partnership firm for AY 2016-17 on 13.10.2016 declaring taxable income of Rs. 71,68,480/-. During the course of assessment proceedings, it was observed that the assessee had not produced the books of account and accordingly book results were rejected by the Id AO u/s 145(3) of the Act and disallowance @ 1/3rd of expenses were made by the Id AO and assessment completed u/s 143(3) of the Act on 12.12.2018. The assessee preferred an appeal before the Id CIT(A). The Id CIT(A) National Faceless Appeal Centre (NFAC) disposed of the appeal vide order dated 31.07.2023 by addressing the issue in respect of addition made on account of employees contribution to PF and ESI, which was not at all ground before National Faceless Appeal Centre (NFAC).

4. Aggrieved by this order, the assessee is in appeal before us.

5. Since the Id CIT(A) had not adjudicated the issue in dispute before him, we deem it fit and appropriate to restore this appeal to the file of the Id CIT(A)

for de novo adjudication in accordance with law. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 19/03/2024.

-Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:19/03/2024
A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi