

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

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

**ITA No.389/DEL/2024
(Assessment Year: 2017-18)**

Kuldeep Kumar, 206-207, Ansal Satyam, RDC, Rajnagar, Ghaziabad – 201 002 (Uttar Pradesh). (PAN : AYHPK2036M) (APPELLANT)	vs.	ITO, Ward 3 (5), Bijnor. (RESPONDENT)
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ASSESSEE BY : Shri Akhilesh Kumar, Advocate
REVENUE BY : Shri Om Prakash, Sr. DR

Date of Hearing : 01.04.2024
Date of Order : 03.04.2024

ORDER

This appeal by the assessee is directed against the orders of the Id. CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated 06.12.2023 for the assessment year 2017-18.

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

“1. Because, order of Id. CIT (Appeals) is bad in law and against the facts and circumstances of the case.

2. Because, Id. CIT (Appeals) inherently wrong in dismissing the appeal in limine, without adjudicating/ considering any of the grounds passed, thus order is against the provisions of section 250/251 of Act and law settled on the issue more so when all the additions are made by Id. AO, without providing proper opportunity of being heard in the absence of any show cause notice.

3. Because, Id. CIT (Appeals) erred in dismissing the appeal with the wrong allegation that assessee not complied with the last notice dated 21.11.2023, though assessee duly filed adjournment application seeking 10-15 days time for the reason of unavailability of accountant, thus the very foundation of order is incorrect, more so

when notices are not issued on the mail peyushkant@gmail.com given on Form 35 and assessee could know the date only after frequently visiting portal through his counsel and sought adjournments with valid reasons, hence order is without providing proper opportunity of being heard.

4. Because, ld. CIT (A) erred in not appreciating the fact that total additions of Rs.15,58,878/- are made unilaterally whereby ld. AO has summarily made the additions without considering the facts put forward without providing proper opportunity and without conducting proper enquiries.

5. Because, ld. CIT (A) further erred to consider the fact that the order of ld. AO is cryptic whereby neither the issue involved for limited scrutiny nor the basis of rejection of explanation is clearly dealt as per law besides after applying provisions of section 44AD further addition u/s 69A may amount to double taxation.”

3. Consequent upon ex-parte order by the AO, ld. CIT (A) also dismissed the appeal of the assessee on the ground that assessee has not furnished necessary submissions.

4. Against his order, assessee is in appeal before the ITAT. I have heard both the parties and perused the records.

5. I find that interest of justice would be served if the issue is remitted back to the file of AO as prayed by the ld. Counsel for the assessee. Ld. DR for the Revenue did not have any objection to this proposition. Hence, the issue is remitted to the file of AO to consider afresh after giving the assessee an opportunity of being heard.

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

Order pronounced in the open court on this 3rd day of April, 2024.

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

Dated the 3rd day of April, 2024/TS

Copy forwarded to:

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

**AR, ITAT
NEW DELHI.**