

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

Before Dr. B. R. R. Kumar, Accountant Member

ITA No. 320/Del/2024 : Asstt. Year : 2012-13

Rakesh Chopra through L/H Geeta Chopra, TP-40, Pitampura, New Delhi-110034	Vs.	Income Tax Officer, Ward-43(6), New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AAEP9843K		

Assessee by : Sh. Rajiv Kumar Jain, CA

Revenue by : Sh. Om Parkash, Sr. DR

Date of Hearing: 28.03.2024

Date of Pronouncement: 02.04.2024
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ORDER

The present appeal has been filed by the assessee against the order of National Faceless Appeal Centre (NFAC), Delhi dated 30.11.2023.

2. Following grounds have been raised by the assessee:

"1. That on the facts and in the circumstances of the case the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as 'Ld. CIT(A), NFAC') has gravely erred in deciding the appeal ex par and confirming the order passed by learned Assessing Officer {hereinafter referred to as 'the AO'} contrary to the principle of natural justice, fair play and proper opportunity.

2. That on the facts and in the circumstances of the case the Ld. CIT(A), NFAC has gravely erred in confirming the order passed by the Ld. AO by dismissing Ground No. 2 to 7 by observing that "nothing adverse could be discerned which may have caused violation of natural justice" ignoring the fact that the assessee had expired on 23.9.2019.

3. That on the facts and in the circumstances of the case the Ld. CIT(A), NFAC has erred in confirming the order passed by the Ld. AO by ignoring the fact recorded in the assessment order that the assessee had expired on 23.9.2019.

4. *That on the facts and in the circumstances of the case the Ld. CIT(A), NFAC has erred in confirming the order passed by Ld. AO by dismissing Ground No. 2 to 7 by observing that "appellant has not produced any evidence to support these general allegations", ignoring the copy of Death Certificate of the assessee dated 1.10.2019 recorded in the assessment order evidencing the demise of assessee on 23.9.2019.*

5. *That on the facts and in the circumstances of the case the Ld. CIT(A), NFAC has erred in confirming the order passed by Ld. AO by not appreciating that during the course of assessment proceedings the legal Heir of the deceased assessee was going through very adverse circumstances due to demise of assessee (her husband) on 23.9.2019.*

6. *That on the facts and in the circumstances of the case and in law, the Ld. CIT(A), NFAC has erred in dismissing the appeal and confirming the assessment order without considering the aspects of fair opportunity of being heard, intention to act in a judicial manner, proceed with the judicial spirit and come to a judicial conclusion.*

7. *That on the facts and in the circumstances of the case and in law, the Ld. CIT(A), NFAC has erred in dismissing the appeal and confirming the assessment order without disposing the Ground No, 7 wherein the appellant had taken the ground that the reopening of assessment is without jurisdiction.*

8. *That on the facts and in the circumstances of the case and in law, the Ld. CIT(A), NFAC has erred in confirming the aggregate addition of Rs. 24,45,612/-.*

9. *That without prejudice to any adverse consequences that may follow, the appellant in the facts and circumstances of the case and in law presses into force for due adjudication of the matter, all grounds pressed in appeal before the Ld. CIT(A), NFAC for due consideration of the Hon'ble Bench."*

3. Heard the arguments of both the parties and perused the material available on record.

4. It is found that the appellate order passed u/s 250 of the Income Tax Act, 1961 has been passed *ex-parte* without serving any of the notice issued of hearing u/s 250(1) of the Act on e-mail address sahilchopra078@gmail.com provided in Form No. 35. It is also fact on record that the Assessment Order passed u/s 144 of the Act was made *ex-parte* after the demise of the

assessee on 17.09.2019 and thereafter without serving any notices on the e-mail address rakeshchopra1953@gmail.com provided in the ITR filed in response to the notice issued u/s 148 of the Act.

5. In view of these facts, it is felt that interest of justice would be well served by remanding the matter to the file of the Assessing Officer for *de novo* assessment after issue of notice to the legal heir.

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

Order Pronounced in the Open Court on 02/04/2024.

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 02/04/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR