

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

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT
AND
SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER**

**ITA No. 1364/DEL/2022
Assessment Year: 2017-18.**

M/s Barkat Raj Capital Private Limited 416, Ground Floor, Bhera Enclave, Paschim Vihar, New Delhi-110087 PAN- AAACR9530K	<u>Vs</u>	Income-tax Officer, Ward 4(2), New Delhi.
APPELLANT		RESPONDENT
Assessee represented by	Shri R.P. Mall, Adv.	
Department represented by	Shri Kanv Bali, Sr. DR	
Date of hearing	04.04.2024	
Date of pronouncement	09.04.2024	

ORDER

PER SAKTIJIT DEY, V.P.:

This is an appeal by the assessee against order dated 08.04.2022 passed by the National Faceless Appeal Centre (NFAC), Delhi for the assessment year 2017-18.

2. Briefly, the facts are, the assessee is a resident corporate entity. For the assessment year under dispute the assessee filed its return of income on 28.10.2017 declaring income of Rs. 7,84,480/-. While completing the assessment u/s 143(3) of the Act, the Assessing Officer made certain additions which resulted in

enhancement of income to Rs. 1,26,36,908/-. The additions made by the Assessing Officer are as under:

(i)	Unexplained purchases	Rs. 44,35,322/-
(ii)	Disallowance of commission expenses	Rs. 66,05,000/-
(iii)	Disallowance of other expenses	Rs. 8,12,106/

2.1 Contesting the aforesaid additions the assessee preferred an appeal before the first appellate authority. However, first appellate authority sustained the additions and dismissed the appeal.

3. We have heard the parties and perused material on record. The limited grievance of the assessee before us is, the first appellate authority has dismissed the appeal without granting fair and reasonable opportunity of being heard to the assessee. It was submitted that that the issues arising out of the additions made may be restored back to the Assessing Officer for de novo adjudication.

3.1 The learned Departmental Representative, though submitted that sufficient opportunity of being heard was provided to the assessee, however, he did not express any objection with regard to the restoration of the issues to the Assessing Officer.

3.2 Having considered rival submissions, we find that the appeal was heard in faceless mode. Though, the first appellate authority has mentioned in the order that sufficient opportunities of hearing were granted to the assessee, however, learned counsel appearing for the assessee has asserted before us that no notice of hearing was ever received by the assessee. Without entering into the controversy relating to claim and counter claim by the assessee and the Revenue, we are of the view that in the interest of fair play and justice, the assessee deserves an opportunity to furnish the supporting evidences qua the additions made by the assessing Officer

and explain its position. Since the assessee did not get such opportunity before the first appellate authority, for whatever may be the reasons, we are inclined to restore the issues to the Assessing Officer for de novo adjudication after providing due and reasonable opportunity of being heard to the assessee. It is made clear, the Assessing Officer must confine himself to the additions made in the assessment order, which are subject matter of the present appeal.

4. In the result, appeal is allowed for statistical purposes.

Order pronounced in open court on 09.04.2024.

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI