

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

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT  
AND  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

**ITA Nos. 3747/DEL/2023  
Assessment Yrs: 2012-13**

<b>Awadh Narayan Asthana, Flat no. 210, Violet Block, Empire Meadow, Ameenpur village, Near Volvo Service Centre, Hyderabad-502032</b>	<u>Vs</u>	Income-tax Officer, Ward 1(5), Gurgaon.
<b>PAN- AECPA6357G</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>		Shri Rakesh Tiwari. CA.
<b>Department represented by</b>		Shri Amit Katoch, Sr. DR
<b>Date of hearing</b>		10.04.2024
<b>Date of pronouncement</b>		10.04.2024

**ORDER**

**PER SAKTIJIT DEY, V.P.:**

This is an appeal by the assessee against order dated 26.10.2023, passed by the National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2012-13.

2. We have heard the parties and perused the materials available on record. The limited grievance of the assessee is against lack of opportunity of hearing given, both by the Assessing Officer and First Appellate Authority.

3. Briefly, the facts are, the assessee is a resident individual. Based on certain information available on record, assessment in case of the assessee was reopened for the impugned assessment year, taking recourse to Section 147 of the Act. As observed by the Assessing Officer (AO), the assessee did not comply with the notices issued u/s 148 and 142(1) of the Act. Therefore, he proceeded to complete the assessment, ex parte, to the best of his judgment u/s 144 read with section 147 of the Act. While doing so, he added an amount of Rs. 33,87,040/- to the income of the assessee. Against the assessment order so passed, the assessee preferred an appeal before the First Appellate Authority. However, by the impugned order, assessee's appeal was dismissed.

4. Having considered rival submissions, we find that the assessment in case of the assessee was completed, ex parte, u/s 144 of the Act by making couple of additions aggregating to Rs. 33,87,040/-. While deciding assessee's appeal against the assessment order, the First Appellate authority has dismissed the appeal on the ground of delay. On going through the order of the First Appellate Authority it is observed that he had not given any show cause notice to the assessee to explain the delay, if any, in filing the appeal. Merely going by certain assumption and presumption, the First Appellate Authority has inferred delay in filing the appeal.

5. Before us, learned counsel, appearing for the assessee, has furnished an affidavit stating that the appeal was filed in proper time. Considering the fact that assessment was completed, ex parte, and the appeal before the First Appellate Authority was dismissed in limine, we are inclined to set aside the impugned order of the First Appellate Authority and restore the issues to the AO for de novo adjudication, after providing due and reasonable opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.

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

Order pronounced in open court on 10.04.2024.

**Sd/-**  
**(PRADIP KUMAR KEDIA)**  
**ACCOUNTANT MEMBER**  
**\*MP\***

**Sd/-**  
**(SAKTIJIT DEY)**  
**VICE PRESIDENT**

Copy forwarded to:

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

**ASSISTANT REGISTRAR**  
**ITAT, NEW DELHI**