

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

**BEFORE SHRI CHALLA NAGENDRA PRASAD:  
JUDICIAL MEMBER**

ITA No.2949/Del/2023  
Assessment Year: 2017-18

PANKAJ SHARMA, E-2/69, Vasant Kunj, New Delhi-1100 70	<b>Vs.</b>	Income Tax Officer, Ward 30(8), New Delhi
<b>PAN :BTRPS6065G</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Shri Vikram Kakkar, Adv.
Department by	Shri Om Prakash, Sr. DR

Date of hearing	23.01.2024
Date of pronouncement	22.04.2024

**ORDER**

**PER CHALLA NAGENDRA PRASAD: JUDICIAL MEMBER:**

This appeal is filed by the assessee against the order of learned Commissioner of Income-Tax (Appeals) National Faceless Appeal Centre (NFAC), Delhi dated 31.08.2023 for the assessment year 2017-18. The assessee has raised the following grounds:

“1. Because the learned Commissioner of Income-Tax(Appeals)/ National Faceless Appeal Centre (NFAC), Delhi has erred on

law and on facts in passing the order under Section 250 of the Income-Tax Act, 1961 vide its Exparte order dated 31.08.23 bearing DIN & Order No. ITBA/NFAC/S/250/2023-24/1055608493(1) without affording due and reasonable opportunity to represent the case of the Appellant. The learned Commissioner of Income-Tax(Appeals) has gone with the observations of deemed service of the notice of hearing and coming to the conclusion that the Appellant have not represented and has dismissed the appeal and upheld the order of the Assessing Officer.

2. Because the learned Commissioner of Income-Tax(Appeals) have failed to appreciate the facts of the case of the Appellant and the ground of appeal in the backdrop of the facts that the Appellant being a Tour Operator and have duly accounted for the money so received and disbursed for the purpose of the business by advancing the money towards the booking and arrangement of the order, requirements of the stay, lodging, transportation etc. for the purposes of the earning of income out of the said source which has been correctly accounted for. Therefore, the observation of the Assessing Officer and learned Commissioner of Income-Tax(Appeals) are based on no material therefore required to be expunged from the orders.

3. Because the Assessing Officer on the basis of the information received opted to make additions observing that the money received by the Appellant during the demonetization period have been deposited as cash in the bank which are not accountable and have been treated as unexplained investment in bank by way of deposits. That the Appellant having produced necessary details of receipts and corresponding payments as expenditure, itself satisfies that the only resultant income emerging out of such contracted operation of tour at best can be subjected to tax and not the amount deposited in the bank is to be treated as unexplained investment.

4. Because the Assessing Officer failed to appreciate that the Appellant have received in cash from the schools from which

the Appellant had arranged the Tours which includes boarding, lodging, transportation and other incidental expenditure of the Students and the Staff of the School, therefore, it is wrong to suggest that an addition of Rs.42,80,000 deposited in the bank relates to any unexplained money with the Appellant as well as the unexplained source when both of them were placed before the Assessing Officer who failed to appreciate and satisfy himself. Such action is incorrect and addition deserved to be set aside.

5. Because the Assessing Officer opted to make addition on account of the deduction claimed under Section 80GG for the reasons recorded that the Appellant has failed to produce the necessary evidence by way of lease deed/rent paid corresponding to the restricted claim of Rs.60,000 per year. The claim has not been denied because of any expenditure claimed against income being assessed under Section 69A but only for the reason of non production of evidences, therefore, the addition deserves to be set aside.

6. Because the Assessing Officer opted to make addition of Rs.1,28,000/- on account of deduction claimed under Section 80C of the Income-Tax Act, 1961 for the reasons recorded that the Appellant has produced an illegible copy of claim of deduction as proof. The claim has not been denied because of any expenditure claimed against income being assessed under Section 69A but only for the reasons of production of illegible copy of claim, therefore, the addition deserves to be set aside.

7. Because the orders passed by the Id. Assessing Officer and the learned Commissioner of Income-Tax(Appeals) are bad in law against the facts of the case. The Appellant crave liberty to add, amend and alter any of the grounds prior to or at the time of hearing of appeal.”

2. At the outset, the learned counsel for the assessee submits that the appeal of the assessee was disposed of ex parte by the learned Commissioner of Income-Tax(Appeals)/National Faceless Appeal Centre (NFAC) without providing reasonable opportunity of being heard. Learned counsel further submits that the appeal was disposed of by the learned Commissioner (Appeals) for non-compliance of the assessee and without adjudicating the issues on merits. The learned counsel for the assessee submits that the appeal may be restored to the file of the learned Commissioner (Appeals) for disposing of the grounds on merits after providing adequate opportunity of being heard to the assessee.

4. On the other hand, learned Departmental Representative has no serious objection in remitting the matter to the file of the learned Commissioner of Income-Tax(Appeals)/National Faceless Appeal Centre for deciding the issues on merit.

5. Heard rival submissions and perused the orders of the authorities below.

6. On perusal of the order of the learned Commissioner of Income-Tax(Appeals)/National Faceless Appeal Centre, it is observed

that the learned Commissioner (Appeals) provided three opportunities to the assessee to substantiate his claims in the appeal filed before him. However, it appears that the assessee did not present his case before the learned Commissioner of Income-Tax(Appeals) and he disposed of the appeal for non-compliance of the assessee and without adjudicating the grounds on merits. In the circumstances, this appeal is restored to the file of the learned Commissioner (Appeals) for adjudicating the grounds on merits after providing adequate opportunity of being heard to the assessee.

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

Order pronounced in the open court on 22/04/2024.

**Sd/-**  
**(CHALLA NAGENDRA PRASAD)**  
**JUDICIAL MEMBER**

Dated: 22<sup>nd</sup> April, 2024.

**Mohan Lal**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi