

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

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

ITA No.3523/Del/2023  
Assessment Year: 2017-18

Flymantra Trips Private Limited, 408, 5 <sup>th</sup> Floor Aditya East Part Apartment, Chander Nagar-II, Ghazaiabad (UP) PIN: 2010 12	<b>Vs.</b>	ITO, Ward-5(1)(3), Gautam Budh Nagar.
<b>PAN :AACCF5349N</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Ms. Sweety Kothari, CA
Department by	Shri Om Prakash, Sr. DR

Date of hearing	25.01.2024
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 07.09.2023 for the assessment

year 2017-18. The assessee has raised the following grounds of appeal:

“1. The CIT(A) erred in law and on facts in dismissing the appeal and not deciding the grounds of appeal on merits of the case and without allowing sufficient opportunity. Thus, the matter should be remanded back to the CIT(A) to decide the matter on merits after allowing proper and sufficient opportunity to the appellant .

2. Without prejudice to the above ground, the CIT(A) erred in law and on facts in confirming the addition of Rs.18,80,950/- u/s 69A of the Act as unexplained money alleging the demonetized currency of the said amount deposited in the regular bank account of the assessee during the relevant period ignoring the facts of the case that the said cash deposit was out of business receipts and also include4d the cash deposited during pre and post demonetization period. Thus, the addition so post demonetization period. Thus, the addition so made should be deleted.

3. Without prejudice to the above ground, the CIT(A) also erred in law and on facts in confirming charge of the income-tax u/s 115 BBE of the Act though there was no undisclosed income attracting the said charge. Thus, necessary directions should be issued to apply correct rate of tax as per the provisions of law if at all necessary.”

2. At the outset, the learned counsel for the assessee submits that the learned Commissioner of Income-Tax(Appeals) dismissed the appeal of the assessee ex parte without providing reasonable opportunity of being heard has not adjudicated the issues on merits.

3. The learned counsel for the assessee further submits that in this case, assessment was completed under Section 144 of the Act as best judgment assessment by the Assessing Officer as the assessee could not comply with the notices issued and the learned Commissioner of Income-Tax(Appeals) dismissed the appeal of the assessee ex parte without deciding the grounds on merits but for non-compliance by the assessee.

4. Learned counsel for the assessee requested that the appeal be restored to the file of the Assessing Officer for de novo assessment as the assessee could not compile all necessary details requiring for completion of assessment which are all placed in the paper book.

5. On the other hand, learned Departmental Representative has no serious objection in restoring the appeal to the file of the learned Assessing Officer for de novo assessment.

6. Heard rival submissions and perused the orders of the authorities below and the material placed before me. In the interest of justice, this appeal is restored to the file of the Assessing Officer to complete the assessment de novo 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