

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

**ITA No. 3889/DEL/2023
Assessment Year: 2017-18**

Arti Setia, K-30, South Extension Part-2, Andrews Ganj, New Delhi-110049 PAN- AXBPS3414L	<u>Vs</u>	Income-tax Officer, Ward-28(4), New Delhi.
APPELLANT		RESPONDENT
Assessee represented by	Shri V. Rajkumar, Adv.	
Department represented by	Shri Om Parkash, Sr. DR	
Date of hearing	18.04.2024	
Date of pronouncement	24.04.2024	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the National Faceless Appeal Centre (NFAC), Delhi, dated 31.10.2023, pertaining to the assessment year 2017-18. The assessee has raised following grounds of appeal:

“On the facts and in the circumstances of the case and in law the Ld. CIT(A) at NFAC, Delhi erred in confirming the following actions of the Assessing Officer-

1. determining taxable income in a sum of Rs. 31.08.010/- against returned income in a sum of Rs. 5,08,010/-

2. *making an addition of Rs. 26,00,000/- being the amount of cash deposited in the bank treating the same as unexplained invoking section 69A r.w.s. 115BBE of the Act;*
3. *charging interest u/s 234B, 23C and 234D of the Act;*
4. *initiating penalty proceedings u/s 271AAC of the Act.”*

2. Facts, in brief, are that for A.Y. 2017-18 the assessee filed her return of income on 31.03.2018 declaring income of Rs. 5,08,010/-. The case was selected for limited scrutiny on account of cash deposit of Rs. 26,00,000/- demonetization period. In response to the statutory notices issued by the AO the assessee filed written submission. Rejecting the assessee's explanation that cash deposit of Rs. 26,00,000/- was out of property sales, the AO added the same to the income of assessee u/s 69A of the Income-tax Act, 1961 (the "Act") and completed the assessment u/s 143(3) of the Act at total income of Rs. 31,08,010/-. Aggrieved, against it the assessee preferred appeal to the CIT(A), who dismissed the appeal by upholding the addition made by the AO. Aggrieved against it the assessee is in appeal before this Tribunal.

3. Learned counsel for the assessee submitted before us that there was no effective representation on behalf of the assessee before the authorities below. He submitted that the impugned order of the learned First Appellate Authority, dismissing the assessee's appeal, was ex parte to the assessee. He prayed that orders of the authorities below may be set aside for decision afresh after providing an opportunity of being heard to the assessee.

4. Per contra, learned DR opposed the submissions and relied on the orders of authorities below.

5. We have heard rival submissions and perused the material available on record. The stand of the assessee before the authorities below was that the cash deposit was out of property sales. However, before authorities below, there was no effective representation in support of her claim. Therefore, to subserve the interests of natural justice and in order to provide an opportunity to the assessee to effectively represent her case, the orders of authorities below are set aside and the matter is restored to the file of Assessing Officer for assessment de novo, after providing reasonable opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.

6. Appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court on 24th April, 2024

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI