

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'E' BENCH,
NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 2759/DEL/2022[A.Y. 2012-13])

M Sons Gems N Jewellery Pvt Ltd
C/o SSAR & Associates, CA
4852/24, First Floor,
Near Sanjivan Hospital, New Delhi

Vs. The I.T.O
Ward -16(1)
New Delhi

PAN - AADCM 9406 A

(Applicant)

(Respondent)

Assessee By : Shri Sachin Jain, CA

Department By : Shri Rajesh Kumar Dhaneshta, Sr.DR

Date of Hearing : 23.04.2024

Date of Pronouncement : 23.04.2024

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order of the
ld. CIT(A)-27, New Delhi dated 28.09.2022 pertaining to A.Y. 2012-13.

2. The assessee has raised the following grounds of appeal:

1. That the order u/s 250 is invalid and nonest since the same was issued without Document Identification Number in view of CBDT

Instruction.

2. That the Ld. CIT (A) was not justified in passing the non-speaking order and that too without due application of mind.

3. That the Ld. CIT (A) was not justified in giving finding of one or two lines on all the legal grounds raised by appellant.

4. That the Assessment order passed is illegal and deserves to be quashed since the same was passed opportunity and without following the Principals of Natural Justice.

5. That the assessment order passed deserves to be quashed since same is passed without due application of mind and without giving any show cause notice.

6. That both the lower authorities were not legally justified in making sustaining the addition of Rs. 66,21,282/- as per the provisions of the Income Tax Act, 1961.

7. That under the facts and circumstances of the case, both the authorities were not justified in making and sustaining the addition of Rs. 66,21,282/- wherein AO recalculated the gross profit and the same deserves to be deleted.

8. That the appellant craves leave to add, amend, alter or withdraw ground of appeal at the time of hearing with the permission of the Hon'ble ITAT, Delhi Bench. "

3. Ground No. 1 is not pressed, hence dismissed as not pressed.
4. The sum and substance of the grievance of the assessee in Ground Nos. 2 to 8 is that the ld. CIT(A) was not justified in passing a non-speaking order and that too without application of mind.
5. At the very outset, the ld. counsel for the assessee submitted that the ld. CIT(A) was not justified in passing a non-speaking order without due application of mind. The ld. counsel for the assessee further contended that the assessment order deserves to be quashed as the same was passed without giving proper opportunity in contravention to principles of natural justice. The ld. counsel for the assessee prayed for restoration of the appeal.
6. The ld. DR relied upon the order of the ld. CIT(A).
7. We have heard the rival submissions and have perused the relevant material on record. We are of the considered view that the CIT(A) has not adequately adjudicated on the replies furnished by the assessee on the various discrepancies found by the Assessing Officer. Since the issue has not been adjudicated by the ld. CIT(A) in

a proper manner, therefore, in the interest of justice and fair play, we deem it fit to restore the appeal to the file of the CIT(A). The CIT(A) is directed to rehear the appeal after affording a reasonable and adequate opportunity of being heard to the assessee.

8. In the result, the appeal of the assessee in ITA No. 2759/DEL/2019 is allowed for statistical purposes.

The order is pronounced in the open court on 23.04.2024.

Sd/-

[SAKTIJIT DEY]
VICE PRESIDENT

Sd/-

[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated: 23rd APRIL, 2024.

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	