

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'SMC' NEW DELHI)**

**BEFORE SH. SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
MS. MADHUMITA ROY, JUDICIAL MEMBER**

ITA No.2987/Del/2023A.Y. 2017-18

Aakash Gupta WZ-778/1, Gali No.7, Lajwanti Garden, New Delhi-110046 PAN No.BKVPG6218A	Vs.	ITO Ward- 49 (4) New Delhi
Appellant		Respondent

Assessee by	Sh. Atul Puri, CA
Revenue by	Sh. Om Prakash, Sr.DR

Date of Hearing	01/05/2024
Date of Pronouncement	03/05/2024

ORDER

PER MADHUMITA ROY, JM:

This appeal filed at the behest of the assessee is directed against the order dated 25.08.2023 passed by the National Faceless Centre, Delhi arising out of the order dated 29.12.2019 passed by the ITO, Ward- 49 (4), Delhi under Section 143(3) of the Income Tax Act, 1961(hereinafter referred to as "the Act") for

Assessment Year 2017-18 whereby and whereunder the addition made by the Ld. AO to the tune Rs.34,20,222/- on account of profit not disclosed on imported goods has been upheld.

2. At the time of hearing of the appeal the Ld. Counsel appearing for the assessee submitted before us that the assessee was not been able to furnish the details and / or documents before the Ld. AO while replying to the show cause issued to the assessee. Therefore, the AO has not consider the case of the assessee in its proper perspective and addition was made which was further confirmed by the Ld. CIT(A).

3. In that view of the matter he has prayed before us for further opportunity to represent his case before the ld. AO upon furnishing evidences in support of his case made out. Such submission made by the Ld. AR has not been controverted by the Ld. DR with all his fairness.

4. Thus, having heard the Ld. Counsel appearing for the assessee and having regard to the facts and circumstances of the case we are

of the opinion that the assessee be given a further opportunity of being heard by the Ld. AO for the ends of justice. In fact, in order to prevent the miscarriage of justice we, therefore, dispose of this appeal by restoring the issue to the file of the Ld. AO with a direction upon him to decide the issue afresh upon granting an opportunity of being heard to the assessee and considering the evidences on record and any other evidence which the assessee made choose to file at the time of hearing of the matter. We make it clear that in the event the assessee does not cooperate with the Ld. AO, the said officer would be at liberty to proceed with the matter and decide the issue strictly in accordance with law.

5. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 03rd May, 2024.

Sd/-

**(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

Date:-03.05.2024

*Neha, Sr.P.S

Sd/-

**(MADHUMITA ROY)
JUDICIAL MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI