

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B': NEW DELHI**

**BEFORESHRI C. N.PRASAD, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

ITA No.3112/Del/2023, A.Y. 2012-13

Canterbury public School B-Block, Yamuna Vihar, Delhi-110053 PAN: AABAC0989Q	Vs.	Income Tax Officer (Exemption) Ward-1(3), New Delhi
(Appellant)		(Respondent)

Appellant by	Sh. Shivam Yadav, Adv. and Sh. Sumit Lalchandani, AR
Respondent by	Sh. Sanjay Tripathi, Sr.DR

Date of Hearing	07/05/2024
Date of Pronouncement	09/05/2024

ORDER

PER AVDHESH KUMAR MISHRA, AM

This appeal of the Assessment Year 2012-13, at the instance of appellant/assessee, challenges an order dated 04.09.2023, of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), New Delhi [In short the 'CIT(A)']. By the order under challenge, the CIT(A) upheld the

taxability of cash deposits aggregating to Rs.53,65,000/- in the bank account of the appellant/assessee under section 69A of the Income Tax Act, 1961 ([In short as the 'Act']).

2. The limited issues that we are tasked to decide here are, whether the CIT(A) was justified in (i) upholding the taxability of cash deposits of Rs.53,65,000/- in the hands of the appellant/assessee under section 69A of the Act on merit and (ii) validating the assessment order in absence of any DIN in the body of the assessment order.

3. The relevant facts, in brief, are that the appellant/assessee is running a school named as Canterbury public School (PAN: AABAC0989Q). The Assessing Officer ([In short as the 'AO'], based on AIR information about cash deposits aggregating to Rs.53,65,000/- in the school's bank account, initiated assessment proceedings under section 147 of the Act on the reasoning that the person (bank account linked with PAN) owning said bank account wherein cash deposits aggregating to Rs. 53,65,000/- made during the year had never filed any return if income. During the course of reopened

assessment proceedings, the appellant/assessee claimed that the school was run by the Canterbury Educational Society (PAN:AAATC1343E) and the school was not an independent taxable entity as its entire receipts and expenses got reflected in the final account and return of income of the Canterbury Educational Society. It was further submitted before the AO that the school took separate PAN different from the PAN of the society for smooth operation of its bank account.

4. During the reopened assessment proceedings, it was contended that the Canterbury Educational Society was a regular filer of its return of income; therefore, the income embedded in the bank deposits of the school got reflected in the final account and return of income of the Society. However, the AO, observing that there were anomalies in receipts and balance sheets figures of the school and society (The receipts of the appellant/assessee were Rs.3,82,46,435/- as against the corresponding receipts of Rs.6,69,467/- shown by the Canterbury Educational Society. Similarly, balance sheet of the appellant/ assessee tallied at Rs. 1,05,26,662/- whereas it was

Rs.12,49,912/- in the case of society), held the cash deposit of Rs.53,65,000/- in the bank account of the appellant/assessee as an unexplained money u/s 69A of the Act and taxed it accordingly, due to non-compliance in later phase of the assessment, vide ex-parte assessment order. Aggrieved, it filed appeal before the Ld. CIT(A), who dismissed the appeal due to non-prosecution.

5. Heard the rival parties.

6. The Ld. AR did not press the grounds related to DIN. He prayed for remitting the matter back to the AO. To which, the Ld. DR appears in agreement with.

7. We have considered the facts of the case in entirety and perused the orders of the subordinate authorities. We are of the considered view that this case is fit for remitting back to the AO for passing the assessment order de novo after affording reasonable opportunities of being heard. Accordingly, we order so. However, we are refraining from commenting on merit of the case.

8. In view of the above, the appeal of appellant/assessee is allowed for statistical purposes.

Order pronounced in open Court on 09 May, 2024.

Sd/-

(C.N.PRASAD)

JUDICIAL MEMBER

Sd/-

(AVDHESH KUMAR MISHRA)

ACCOUNTANT MEMBER

Dated:09/05/2024

Binita, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI