

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No. 3495/DEL/2023
Assessment Year: 2017-18**

Braham Singh, H. No. 218, near Panchayat Ghar, Mujeri Vijay Nagar, Sagarpur, B.O. Faridabad-121004. PAN- DNMPS 9977 Q	<u>Vs</u>	Income-tax Officer, Ward-1(1), Faridabad.
APPELLANT		RESPONDENT
Assessee represented by	Shri Shyam Sunder Mangla, CA	
Department represented by	Shri Kanv Bali, Sr. DR	
Date of hearing	09.05.2024	
Date of pronouncement	09.05.2024	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned CIT (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 16.10.2023, pertaining to the assessment year 2017-18. The assessee has raised following grounds of appeal:

- “1. That having of the case, the Ld. CIT(A) has erred in confirming the penalty amounting to Rs. 46,40,154.*
- 2. That having regards to the facts and circumstances of the case, the Ld. CIT(A) has erred in admitting the appeal considering the impact of section 249(4)(b) 234B and 208.*
- 3. That the Ld. CIT(A) has not afforded proper opportunity to the appellant to explain the matter and whole order is arbitrary and against the principles of natural justice.*
- 4. That in any view of the matter and in any case the order under appeal is bad in law and against the circumstances of the case.*
- 5. That the appellant craves leave to add, modify, or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”*

2. Facts, in brief, are that as per information received, the AO noticed that the assessee had purchased time deposit of Rs. 75,00,000/- with oriental bank of commerce. Further, an amount of Rs. 81,08,342/- had been credited to the assessee on account of interest u/s 194A on which TDS also deducted during the financial year 2016-17 relevant to the A.Y. 2017-18. However, no return of income had been filed by the assessee for A.Y. 2017-18. Statutory notices issued by the AO to the assessee remained non-complied. Accordingly, the AO concluded that assessee was deliberately not providing desired information/details relating to source of purchase time deposit and an amount of Rs. 81,08,342/-, credited to the assessee on account of interest u/s 194A on which TDS also deducted during the financial year 2016-17 relevant to the A.Y. 2017-18. According to the AO, there was every reason to believe that the deposits during period made by the assessee from undisclosed sources. The AO completed the assessment u/s 147 r.w.s 144 read with section 144B of the IT Act, 1961 on 27.03.2022 at an income of Rs. 1,56,08,342/-. The AO also initiated penalty proceedings against the assessee u/s

270A of the Act for under reporting his income. Ultimately vide order dated 02.09.2022 the AO imposed a penalty Rs. 46,40,154/- @ 200% of amount of the tax payable on under reporting of income u/s 270A of the Act. Against this the assessee preferred appeal before the learned CIT(A) who vide order dated 16.10.2023, without going into the merit of the case, dismissed the appeal in limine treating the same as unadmitted, on account of non-payment of an amount equal to advance tax. Aggrieved against this now the assessee is in appeal before this Tribunal.

3. Learned counsel for the assessee submitted that no proper opportunity of hearing was afforded to the assessee by the learned CIT(A) to represent its case and dismissed the appeal in limine, treating the same as unadmitted, for want of payment of an equal to advance tax. He prayed that in the interest of natural justice the matter may be restored to the file of learned CIT(A) for decision afresh on merit after affording reasonable opportunity to the assessee to represent his case.

4. Learned DR opposed the submissions made on behalf of the assessee.

5. We have heard rival submissions and perused the material available on record. Considering the fact that there was no effective representation on behalf of the assessee before the authorities below and the learned CIT(A) dismissed the assessee's appeal in limine without going any finding on merit, in order to subserve the interests of natural justice and to provide an opportunity to the assessee to effectively represent his case, the order of learned CIT(A) is set aside and the matter is restored to the file of learned CIT(A) for decision afresh on merit,

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 09.05.2024.

Sd/-
(BRAJESH KUMAR SINGH)
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