

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

**BEFORE,
SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.863/Del/2024
(ASSESSMENT YEAR 2012-13)**

Mangal Singh C/o Sanjeev Anand and Associates 136, Navyug Market Uttar Pradesh-201001 PAN-BWKPS6928N (Appellant)	Vs.	Income Tax Officer Ghaziabad (Respondent)
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Assessee by	Shri Sumit Gupta, CA
Respondent by	Shri Om Prakash, Sr. DR

Date of Hearing	06/05/2024
Date of Pronouncement	10/05/2024

ORDER

PER S.RIFAUR RAHMAN, AM:

1. This appeal has been filed by the Assessee against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ["Ld. CIT(A)", for short], dated 27/09/2023 for Assessment Year 2012-13.

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

"1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in framing the impugned reassessment order u/s 144/147 and that too without assuming jurisdiction as per law and without complying with the

mandatory conditions u/s 147 to 151 as envisaged under the Income Tax Act, 1961.

2. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the addition of Rs. 15,30,000/- as unexplained by recording incorrect facts and findings and without observing the principles of natural justice.

3. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the addition of Rs. 15,30,000/- as unexplained when the deposit in the bank account is out of genuine sources.

4. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts of the case in not reversing the action of Ld. AO in charging interest u/s 234A and 234B of the Act

5. That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”

3. At the outset, the Ld. AR briefly submitted the facts in this case and agreed that Assessing Officer sent several notices, but assessee could not make submission before him, therefore, proceeded to make the assessment u/s 144 r. w. section 147 of the Act, 1961 ('the Act' for short). Further, he agreed that several opportunities were given by the Ld. CIT(A) as well and assessee could not represent his case due to non-receipt of the notices, however, he submitted that the Ld. CIT(A) has proceeded to dismissed the appeal filed by the assessee *in limine* without deciding the issue on merits. He submitted that the assessee has

not proved the source of cash deposit in his bank account. He prayed that this issue may be remitted back to file of Ld. CIT(A) for proper adjudication.

4. On the other hand, Ld. DR relied on the order of the lower authorities and submitted that assessee has not utilized the opportunity provided by Assessing Officer as well as Ld. CIT(A). However, he agreed that the order passed by Ld. CIT(A) is *ex-parte* order.

5. Considered the rival submissions and material placed on record. On a perusal of the assessment order and First Appellate Authority order, we find that even though the Assessing Officer and Ld. CIT(A) provided opportunity on several occasions, assessee could not appear nor complied to the notices issued. We observed that Ld. CIT(A) dismissed the appeal filed by the assessee based on the information available on record.

6. Considering the totality of facts and keeping in view the additions/disallowance made by the Assessing Officer, we are of the opinion that assessee should be given one more opportunity of being heard. Accordingly, in the interest of justice we are of the

view that this matter should go back to the file of the Ld. CIT(A) for *denovo* adjudication. Assessee shall cooperate with the proceedings before the Assessing Officer without taking unnecessary adjournments. Needless to say that the Assessing Officer shall give adequate opportunity of being heard to the assessee. Thus, this appeal is restored to the file of the Assessing Officer accordingly.

7. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 10th May, 2024.

Sd/-

(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 10/05/2024

Pk/sps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI