

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.48/Del/2024  
[Assessment Year : 2012-13]**

Neeraj Kumar, Village-Mandola, Loni, Ghaziabad, Uttar Pradesh-201102. <b>PAN-AVNPk1326P</b>	vs	ITO, Ward-2 (5), Ghaziabad.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Satya Jeet Goel, Adv.	
<b>Respondent by</b>	Shri Om Parkash, Sr.DR	
<b>Date of Hearing</b>	20.05.2024	
<b>Date of Pronouncement</b>	22.05.2024	

**ORDER**

**PER KUL BHARAT, JM :**

The present appeal filed by the assessee is directed against the order passed by Ld.CIT(A), National Faceless Appeal Centre (“NFAC”), Delhi dated 02.11.2023 for the assessment year 2012-13.

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

1. (i) *“That on facts and circumstances of the case, the Ld CIT(A) was not justified in dismissing the appeal without providing effective opportunity of hearing to the assessee and as such the order of CIT(A) being without proper opportunity is illegal and against the principle of natural justice.*
- (ii) *That the non appearance before the first appellate authority was due to circumstances beyond control and same being bonafide grounds, the assessee should have been provided opportunity of effective hearing.*

- (iii) *That the Ld CIT(A) has grossly erred in rejecting the appeal without adjudicating the same on merits and as such the impugned order is not sustainable on facts and under law.*
- (2) *That on the facts and circumstances of the case, the Ld CIT(A) was not justified in upholding the addition of Rs. 16,35,000/- on account of cash deposit made from time to time in the bank account by imposing the provisions contained u/s. 68 of the Income Tax Act, 1961.*
- (3) *That the orders passed by Lower authorities are not justified on facts and same are bad in Law.*
- (4) *That the appellant craves leave to add/alter all or any of the grounds of appeal before or at the time of hearing of the appeal.”*

3. At the outset, Ld. Counsel for the assessee submitted that the assessee was not provided sufficient opportunity to represent his case. It was further contended that even before the Assessing Officer (“AO”), the assessee could not make representation due to circumstances beyond his control. He contended that in the interest of principle of natural justice, the impugned order may be set aside and the matter may be restored to the AO for framing the assessment afresh.

4. On the other hand, Ld. Sr. DR for the Revenue opposed the submissions of the assessee and submitted that the sufficient opportunity was granted to the assessee. The assessee was negligent throughout the proceedings.

5. I have heard Ld. Authorized Representatives of the parties and perused the material available on record. I find that the orders of the lower authorities are *ex-parte* to the assessee. The AO made impugned addition on the basis of cash deposited in his saving bank account maintained with Oriental Bank of

Commerce. It is submitted that the finding of AO is *ex-facie* incorrect. If the assessee is given an opportunity, he would demonstrate that the amount of INR 16,35,0000/- is incorrectly taken by the AO himself. It is submitted that the lower authorities committed patent error in holding that the assessee had deposited cash in sum of INR 16,35,000/-. If the assessee is given opportunity, he would demonstrate the correct figure of cash deposited in the bank and explanation about the source of cash deposits. Considering the totality of the facts and to sub-serve the principle of natural justice, I hereby set aside the impugned order and restore the assessment to the file of AO for making *denovo* assessment after giving reasonable opportunity to the assessee for explaining the source of cash deposits in the bank account of the assessee. Grounds raised by the assessee are accordingly, allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 22<sup>nd</sup> May, 2024.

**Sd/-**

**(KUL BHARAT)  
JUDICIAL MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI