

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 3628/DEL/2023**  
**Assessment Year: 2012-13**

<b>Bhavnesk Khurana, H. No. 890/28, Jyoti Park, Near Geeta Ashram, Gurgaon.</b>	<u>Vs</u>	Income-tax Officer, Ward-1(3), Gurgaon
<b>PAN- AKXPk 3267 C</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	Ms. Rano Jain, Adv.	
<b>Department represented by</b>	Shri Om Parkash, Sr. DR	
<b>Date of hearing</b>	21.05.2024	
<b>Date of pronouncement</b>	21.05.2024	

**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 17.10.2023, pertaining to the assessment year 2012-13. The assessee has raised following grounds of appeal:

*“On the facts and circumstances of the case, the order passed by the National Faceless Appeal Centre (NFAC) is bad both in the eye of law and on facts.*

*148 Grounds*

*2.(1) On the facts and circumstances of the case, NFAC has erred, both of facts and in law, in confirming addition of Rs. 16,01,450/- made by the Ld. Assessing Officer (AO) on account of cash deposited in the HDFC Bank and Oriental Bank of Commerce.*

*(ii) That the addition has been confirmed misunderstanding the facts of the case.*

*3.(i) On the facts and circumstances of the case, NFAC has erred, both of facts and in law, in confirming addition of cash deposited in Kotak Mahindra Bank amounting to Rs.8,33,000/-.*

*(ii) That the addition has been confirmed misunderstanding the facts of the case.*

*4(i) On the facts and circumstances of the case, NFAC has erred, both of facts and in law, in confirming the addition of Rs. 1,21,290/- made by the Ld. AO on account of credit card payment made in Indusind Bank.*

*(ii) That the addition has been confirmed misunderstanding the facts of the case.*

*5.(i) On the facts and circumstances of the case, NFAC has erred, both of facts and in law, in confirming the addition of Rs.3,17,826/- made by the Ld. AO on account of credit card payment made in Citi Bank.*

*(ii) case. That the addition has been confirmed misunderstanding the facts of the*

*6. On the facts and circumstances of the case, NFAC has erred, both of facts and in law, in passing the order without giving assessee a proper opportunity of being heard in violation of principle of natural justice.*

*7. The applicant craves leave to add, amend or alter any of the grounds of appeal.”*

2. Facts giving rise to the present appeal are that case of the assessee was reopened u/s 147 of the Income-tax Act, 1961 (the ‘Act’), on the basis that there

was some cash deposit amounting to Rs. 16,01,480/- in the bank account, maintained with ICICI Bank Ltd. Thereafter a notice u/s 148 of the act was issued and served upon the assessee. In response to the statutory notice, no one attended the proceedings. Therefore, the AO, drawing adverse inference, made addition of Rs. 16,01,480/-. He further made addition of Rs. 12,72,116/- in respect of cash deposited in Kotak Mahindra Bank Ltd.; and credit card payments in Indusland Bank and CITI Bank. Aggrieved against this the assessee preferred appeal before learned CIT(A), who dismissed the appeal and sustained the finding of the Assessing Authority. Now the assessee is in appeal before this Tribunal.

3. Apropos to the grounds of appeal, learned counsel appearing for the assessee, Ms. Rano Jain, advocate strongly urged that matter may be sent back to the file of AO as there was no active representation on behalf of the assessee before the authorities below. She contended that the assessee would cooperate in the assessment proceedings and furnish requisite details.

4. On the other hand, learned DR opposed the submissions and supported the orders of authorities below.

5. I have heard rival submissions and perused the material available on record. From the record it transpires that despite opportunity there was no active representation on behalf of the assessee. Learned counsel for the assessee submitted that due to spread of Covid-19, the assessee was prevented by reasonable cause in not furnishing details and in not attending proceedings before the Assessing Authority. Looking into totality of facts of the present case and to subserve the interests of natural justice I deem it fit and proper to provide an opportunity to assessee to effectively represent his case before the Assessing Officer. Accordingly, orders of authorities below are set aside and the matter is

restored to the file of AO for decision afresh, after affording adequate 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 21.05.2024.

**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**