

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 3629/DEL/2023
Assessment Year: 2017-18

Bhavnesk Khurana, H. No. 890/28, Jyoti Park, Near Geeta Ashram, Gurgaon.	<u>Vs</u>	Income-tax Officer, Ward-1(3), Gurgaon
PAN- AKXPk 3267 C		
APPELLANT		RESPONDENT
Assessee represented by		Ms. Rano Jain, Adv.
Department represented by		Shri Om Parkash, Sr. DR
Date of hearing		21.05.2024
Date of pronouncement		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 02.11.2023, pertaining to the assessment year 2017-18. The assessee has raised following grounds of appeal:

“1. 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.

2.(i) On the facts and circumstances of the case, NFAC has erred, both of facts and in law, in confirming addition of Rs.24,01,380/- made by the Ld. Assessing Officer (AO) on account of credit card payment made by the assessee.

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

3. On the facts and circumstances of the case, the order passed by the NFAC is bad both in the eye of law and on facts having been passed without giving assessee a proper opportunity of being heard in violation of principle of natural justice.

4. 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 for A.Y. 2017-18, the assessee filed his return of income on 18.08.2017 declaring total taxable income of Rs. 2,42,150/-. The case was selected for scrutiny under CASS for the reason of credit card payments amounting to Rs. 43,28,810/-. In response to the statutory notices, no one attended the proceedings. Vide order dated 04.12.2019, The AO completed the assessment u/s 143(3) of the Act at an income of Rs. 26,43,530/- by adding Rs. 24,01,380/- on account of deposit of unaccounted cash in credit card bill payments, as unexplained income u/s 69A of the Act. Aggrieved against this the assessee preferred appeal before learned CIT(A), who dismissed the appeal and sustained the order 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