

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER AND
SH. AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No. 2978/Del/2023
(Assessment Year : 2017-18)**

Amit Behki
A-103, 2nd Floor,
Lok Vihar, Pitampura,
New Delhi – 110034

Vs. Income Tax Officer
Ward – 45(3)
Delhi

PAN: ACVPB 0196 P

(Appellant)

..

(Respondent)

Appellant by : Shri Pranshu Singhal, C.A.
Respondent by : Shri Kanv Bali, Sr. D.R.

Date of Hearing 21.05.2024
Date of Pronouncement 27.05.2024

ORDER

PER MS. MADHUMITA ROY – JUDICIAL MEMBER :

The instant appeal filed by the assessee is directed against the order dated 24.08.2023 passed by the Commissioner of Income Tax (Appeals) – NFAC, Delhi under Section 250 of the Income Tax Act, 1961 (hereinafter referred as to 'the Act') arising out of the assessment order dated 29.12.2019 passed by the Assessing Officer ('the AO') under Section 143(3) of the Act for the Assessment Year (A.Y.) 2017-18.

- 2 -

2. We have heard the Learned Counsels appearing for the parties, we have also perused the relevant materials available on record. It appears that, during the course of appellate proceedings, the assessee did not appear before the First Appellate Authority on the dates of hearing fixed, neither any adjournment has been sought for. Having no other alternative, the Learned CIT(A) proceeded with the appeal and confirmed the addition made by the Learned AO holding that the appellant is not interested to proceed with the appeal.

3. On the other hand, the case of the assessee is this that, the notice was given by the Learned CIT(A) through e-mail ID of the old Accountant, who already left the job, which, naturally, the assessee was not aware of. In addition to that, the assessee had to return to his hometown at Amritsar to attend one of his ailing family members and failed to take proper steps in the matter before the Learned CIT(A). Thus, an affidavit to that effect has also been affirmed by the assessee before us. Under these particular facts and circumstances of the matter, the Learned AR prays for a further opportunity of being heard by the CIT(A) to represent the case effectively. Such prayer, however, has not been objected by the Learned DR with all his fairness.

4. Having heard the Learned Counsels appearing for the parties and having regard to the facts and circumstances of the case, we find that the reason narrated by the assessee for not being able to represent the case before the First Appellate Authority seems to be genuine. Further that, in

- 3 -

order to prevent the miscarriage of justice, we feel that a further opportunity be given to the assessee to be heard before the First Appellate Authority.

5. Hence, we quash the impugned order and restore the issue to the file of Learned CIT(A) with a direction upon him to pass a reasoned order upon granting an opportunity of being heard to the assessee and upon considering the evidence on record or any other evidence which the assessee may choose to file at the time of hearing of the matter. We also make it clear that in the event, the appellant fails to appear before the First Appellate Authority or does not Co-operate with the said authority, the Learned CIT(A) would be at liberty to proceed strictly with in accordance with law.

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

This Order pronounced in Open Court on 27/05/2024

Sd/-
(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER

Sd/-
(Ms. MADHUMITA ROY)
JUDICIAL MEMBER

Dated 27/05/2024

*Priti Yadav, Sr.PS**

- 4 -

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI