

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

**BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No:- 728/Del/2024
(Assessment Year- 2012-13)**

Surendra, Greater Noida.	Vs.	Ward 2(3), Noida.
PAN No: DDZPS9114J		
APPELLANT		RESPONDENT

Assessee by : Shri Raghuraj Singh, Adv.
Revenue by : Shri Om Parkash, Sr. DR

Date of Hearing : 13.05.2024
Date of Pronouncement : 30.05.2024

ORDER

PER SUDHIR PAREEK, JM

The instant appeal arises out of the order dated 12.01.2024 passed by the Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC) [hereinafter referred to as the 'Ld. CIT(A)] in appeal no. NFAC/2011-12/10145909 against the Assessment Order dated 31.12.2019 passed under Section 144 r/w 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') by

the Learned Assessing Officer (hereinafter referred to as 'Ld. AO').

2. We heard the rival submissions and carefully perused the material available on record before us.

3. During the course of hearing, on behalf of the Assessee/ Appellant, it is submitted that order passed by lower authorities are against the principle of natural justice as no notice u/s 148 of the Act was served upon him and ex-parte assessment was completed which rendered the Assessment Order void ab-initio. It is also submitted that Ld. AO has not given proper opportunity of being heard to him and has not provided and confronted him with the material collected behind the back of him, upon which the Ld. AO has relied in making additions. It is also added that Ld. AO passed addition order on account of unexplained cash deposit of Rs. 39,00,000/- on being wholly based on conjectures and surmises and its being untrue in liable to be deleted. Above facts are also reiterated in grounds of appeal by the assessee / appellant.

4. It is also submitted that the assessee/ appellant is a farmer and an illiterate person who does not know the tax rules. He had received compulsory land compensation of Rs. 45.6 Lac dated 21.03.2011 which is exempted u/s 10(37) of the Act. He had withdrawal of Rs. 40 Lac cash on dated 20.10.2011 from the

saving bank account, and the same money of Rs. 39.00 Lac was return back deposited.

5. Learned Departmental Representative (hereinafter referred to as 'Ld. DR') opposed appeal by stating that despite sufficient opportunities, assessee could not produce evidence in the favour of his claim and appeal has no substance.

6. It is relevant and strange to mention here that the lower appellate authority termed "appeal" filed by assessee / appellant as non-maintainable because of non-submission of sufficient evidence but in our humble opinion simply non-submission of sufficient evidence does not make assessee's appeal "non-maintainable".

7. Upon hearing both the parties, and overall circumstances, in the interest of justice providing one more opportunity to the assessee / appellant will certainly cause justice to some extent. So, without discussing on merits of the case, matter is remitted back to the Ld. AO with the direction to afford meaningful and effective opportunity in accordance with law to the assessee/ appellant and decide afresh. The assessee / appellant shall co-operate in the proceeding for expeditious disposal before Ld. AO with providing all material / document / evidence in support of his claim and will not seek unnecessary adjournment.

8. Consequently, this appeal is allowed as indicated above for statistical purpose.

Order pronounced in the Open Court on 30.05.2024

Sd/-
(S RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(SUDHIR PAREEK)
JUDICIAL MEMBER

Dated: 30/05/2024.
Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	