

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**AND**

**SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.2150/DEL/2023  
[Assessment Year: 2015-16]**

Anil Kumar Singh, 703, Ferrara, Plot No.1/5, Mahagun Mension Vaibhav Khand-I, Indrapuram, Uttar Pradesh-201014	Vs	Income Tax Officer, Ward-1(1), Ghaziabad, Uttar Pradesh-201001
<b>PAN-BIPPS9518F</b>		
Assessee		Revenue

Assessee by	Shri DC Garg, Adv.
Revenue by	Shri Daya Inder Singh Sidhu, CIT-DR,

<b>Date of Hearing</b>	<b>02.05.2024</b>
<b>Date of Pronouncement</b>	<b>16.05.2024</b>

**ORDER**

**PER BRAJESH KUMAR SINGH, AM,**

This appeal by the assessee is directed against the order of National Faceless Appeal Centre, Delhi, dated 30.05.2023 pertaining to Assessment Year 2015-16.

2. The grounds of appeal raised by the assessee reads as under:-

*“1. That Learned National Faceless Appeal Centre (NFAC), Delhi, has grossly erred in law as well as on facts in deciding the appeal without providing any opportunity of being heard. Hence, violated principles of natural justice.*

*2. That Learned National Faceless Appeal Centre (NFAC), Delhi, has grossly erred in law as well as on facts in confirming the addition of Rs.22,96,500/- made by the Assessing Officer on account of gifts received from close relatives without appreciating the facts.*

*3. That Learned National Faceless Appeal Centre (NFAC), Delhi has, grossly erred in law as well as on facts in*

*confirming addition of Rs.30,65,000/- made by the Assessing Officer by treating agricultural income as income from other sources.*

*4. That Learned National Faceless Appeal Centre (NFAC), Delhi has grossly erred in law as well as on facts and in confirming addition of Rs.13,80,000/- made by the Assessing Officer u/s 69 without appreciating the material available on record.*

*5. That Learned National Faceless Appeal Centre (NFAC), Delhi has grossly erred in law as well as on facts in confirming addition of Rs.10,76,000/- made by the Assessing Officer u/s 56(2)(vii) of the Income tax Act, 1961 without appreciating the fact that fair market price of the impugned land is much lower than its price as per Circle Rate.”*

3. Brief facts of the case: In this case, the assessment order was passed u/s 143(3) of the Income Tax Act, 1961 on 29.12.2017 for AY 2015-16, determining total income of Rs.81,26,400/- against the returned income of Rs.3,09,400/-. The various additions made in the assessment order are as under:-

- i. Gift of Rs.12,96,500/- received from Sh. Inder Pal Yadav (Father-in-law)
- ii. Gift of Rs.10,00,000/- received from Sh. Uday Veer Singh (Father)
- iii. Agricultural Income of Rs.34,65,000/-
- iv. Unsecured loan taken from M/s A C S Softweb Solutions Pvt. Ltd. of Rs.8,00,000/-
- v. Unsecured loans taken from M/s Provogue Consultants Pvt. Ltd. of Rs.13,80,000/-
- vi. Income from other sources u/s 56(2)(vii)(b)(ii) of the Act of Rs.10,76,000/-

4. Against the assessment order, the assessee filed an appeal, which was decided by the National Faceless Appeal Centre, Delhi, vide order dated 30.05.2023. In para-4 of the CIT(A) order, the details of the case being fixed on 11.01.2021, 10.05.2023 and 18.05.2023 are mentioned in which notice

of hearing u/s 250 of the Act were issued to the appellant on the e-mail as mentioned in Form No.35 filed by the appellant as well as on two other e-mails found in the department's ITBA system. However, as per the CIT(A), no reply was filed by the appellant in the appeal proceedings. Thereafter, the CIT(A) relying upon various case laws held that the appellant has not perused in the appeal despite being granted several opportunities and therefore decided the appeal on the basis of facts available on record. The operative portion of the CIT(A) in para-8.3 is reproduced hereunder:-

*“8.3. Held:- During the course of appeal proceedings, no reply has been filed by the appellant. I have perused the order of the Assessing Officer and considered the facts of the case. The Assessing Officer has passed a speaking order with detailed discussion on the issues involved therein. The appellant has not pursued the appeal despite being granted several opportunities through notices u/s 250 of the I.T. Act. No details, documents or submissions have been provided by the appellant substantiating its grounds of appeal. Moreover, mere facts mentioned in Form No. 35 cannot be considered in the absence of any supporting documentary evidence and submissions.*

*The AO has passed a reasoned and speaking order considering all the facts and the circumstances of the case. Also, the appellant has failed to bring anything on record to support its grounds of appeal and to counter the additions made by the AO. Therefore, there is no reason to interfere with the order passed by the AO. Accordingly, the grounds of appeal nos. 1 to 6 are also dismissed.”*

5. Against the above order, the assessee is in appeal before us.
  
6. During the appellate proceeding before us, the assessee in ground no.1 as well as written submission filed on 02.05.2024 submitted that the CIT(A) dismissed the appeal *ex-parte*, without service of notice and requested that the case may kindly be restored back to the file of the CIT(A) for fresh adjudication. The submission of the assessee is reproduced as under:-

*“The Appellant Assesee is an individual deriving income from salary and other sources. The Assessing Officer, without proper appreciating the submissions filed during assessment proceedings, made various addition to the tune of Rs. 78,17,000/- under section 69 and 56. The CIT(A) also dismissed the appeal ex-parte, without service of the notice.*

*In view of above, it is humbly prayed before the Hon'ble Bench that the case may kindly be restored back to the file of CIT(A) for fresh adjudication.”*

7. The Ld. DR relied upon the orders of authorities below.
8. We have heard rival submissions and perused the material available on record. Considering the fact that there was no effective representation on behalf of the assessee before the authorities below and the learned CIT(A) dismissed the assessee's appeal *in limine* without giving any conclusive finding on merit, in order to subserve the interests of natural justice and to provide an opportunity to the assessee to effectively represent his case, the order of learned CIT(A) is set aside and the matter is restored to the file of learned CIT(A) for decision afresh on merit, after providing reasonable opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.
9. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 16<sup>th</sup> May, 2024.

**Sd/-**  
**[KUL BHARAT]**  
**JUDICIAL MEMBER**

**Dated** .05.2024.

*SK*

**Sd/-**  
**[BRAJESH KUMAR SINGH]**  
**ACCOUNTANT MEMBER**

Copy forwarded to:

1. Assessee
2. Respondent

3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi