



**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH "A", LUCKNOW**

**BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER  
AND SHRI SUBHASH MALGURIA, JUDICIAL MEMBER**

ITA No.340/LKW/2023  
Assessment Year: 2018-19

Shri Gopi Kishan Omarvaish Dharmada Trust 26/49, Birhana Road Kanpur	v.	The Income Tax Officer Exemption Ward Kanpur
PAN:AAATG4357Q		
(Appellant)		(Respondent)

Appellant by:	None
Respondent by:	Smt. Namita S. Pandey, CIT(DR)
Date of hearing:	18   06   2024
Date of pronouncement:	20   06   2024

**ORDER**

**PER SUBHASH MALGURIA, J.M.:**

This appeal has been filed by the assessee against the order of the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi dated 16.10.2023 for the assessment year 2018-19.

2. None has appeared for the Assessee despite issuance of Notice through RPAD, which Notice has not returned unserved. However, finding that the matter can be decided in the absence of the Assessee, we have decided to dispose of the appeal after hearing the Id. CIT (D.R.) and after perusing the material on record.

3. The assessment order was passed by the Assessing Officer (AO)/National e-Assessment Centre (NeAC) under section 143(3) read with sections 143(3A) and 143(3B) of the Income Tax Act, 1961, assessing the total income of the assessee at

Rs.4,97,02,494/-, wherein various additions were made. Aggrieved, the assessee filed appeal before the ld. CIT(A). The ld. CIT(A), NFAC vide impugned ex-parte order dated 16.10.2023, dismissed the appeal of the assessee. Aggrieved with the impugned order of the ld. CIT(A), the assessee is in appeal before us, raising the following grounds of appeal:

1. THAT THE LD.CIT(A) HAS ERRED IN PASSING THE APPELLATE ORDER EX- PARTE WITHOUT PROVIDING ANY OPPORTUNITY OF HEARING TO THE APPELLANT AGAINST THE ISSUE IN APPEAL AS NO NOTICE HAS BEEN COMMUNICATED TO THE APPELLANT ON THE GIVEN COMMUNICATION EMAIL AS WELL AS WELL AS POSTAL ADDRESS AS APPEARING IN THE SERIAL NO. 17 TO THE FORM 35 OF APPEAL TO LD. CIT(A).
2. THAT THE LD.AO HAS ERRED IN PASSING THE ASSESSMENT ORDER WITHOUT PROVIDING ANY OPPORTUNITY TO THE APPELLANT MANDATORILY REQUIRED TO ISSUE AND SHOW CAUSE DRAFT ASSESSMENT ORDER BEFORE CONFIRMING ANY ADDITION TO BE MADE BY THE LD.AO CONSEQUENTLY MAKING THE ASSESSMENT ORDER VIOLATIVE OF PRINCIPLE OF NATURAL JUSTICE AND BAD IN LAW.
3. THAT THE LD.AO HAS ERRED IN MAKING ADDITION OF RS.58,64,276/- ON ACCOUNT OF EXCESS AMOUNT SHOWN AS DEEMED TO HAVE BEEN APPLIED.
4. THAT THE LD.AO HAS ERRED IN MAKING ADDITION OF RS. 2,58,58,997/- ON ACCOUNT OF DIFFERENCE OF TOTAL RECEIPT AND EXPENDITURE MADE BY THE APPELLANT.
5. THAT THE LD.AO HAS ERRED IN MAKING ADDITION OF RS. 1,24,53,721/- U/S 11(3) ON ACCOUNT OF NON UTILIZATION OF FUND.

6. THAT THE LD.AO HAS ERRED IN MAKING ADDITION OF RS. 55,25,500/- ON ACCOUNT OF INCOME SHOWN IN INCOME FROM OTHER SOURCES.

4. In the present appeal before us, the assessee has raised grounds No.1 & 2 of the appeal, wherein it has been contended that both the Assessing Officer as well as the ld. CIT(A) passed ex-parte order without providing effective and reasonable opportunity to the assessee. At the time of hearing before us, the ld. D.R., with regard to grounds No.1 & 2 of the appeal, submitted that he has no objection if the matter is restored back to the file of the Assessing Officer to pass fresh assessment order in accordance with law after providing reasonable opportunity to the assessee.

5. In view of the foregoing, the impugned order dated 16.10.2023 of the ld. CIT(A), NFAC is set aside and all the issues in dispute in the present appeal before us are restored to the file of the Assessing Officer with a direction to pass de novo assessment order in accordance with law after providing reasonable and effective opportunity to the assessee. All the grounds of appeal are treated as disposed of in accordance with these directions.

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

Order pronounced in the open Court on 20/06/2024.

Sd/-  
[ANADEE NATH MISSHRA]  
ACCOUNTANT MEMBER

Sd/-  
[SUBHASH MALGURIA]  
JUDICIAL MEMBER

DATED:20/06/2024

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR

By order

Assistant Registrar