

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

AND

SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER

**ITA No.3582/Del/2023
[Assessment Year: 2012-13]**

Devraj Tyagi, II-F-36, Kalka Ghari Chock Nehru Nagar, Uttar Pradesh-201001	Vs	Income Tax Officer, Ward-1(2), RoomNo.230, CGO Complex-1, Uttar Pradesh-201001
PAN-AIXPT4209P		
Assessee		Revenue

Assessee by	Sh. Sumit Gupta, CA
Revenue by	Sh. Dayainder Singh Sidhu, CIT(DR)

Date of Hearing	13.06.2024
Date of Pronouncement	13.06.2024

ORDER

PER BRAJESH KUMAR SINGH, AM,

This appeal by the assessee is directed against the order of National Faceless Appeal Centre (NFAC), Delhi, dated 04.08.2023 pertaining to Assessment Year 2012-13.

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

“1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in framing the impugned reassessment order u/s 144/147 and that too without assuming jurisdiction as per law and without complying the mandatory conditions u/s 147 to 151 as envisaged under the Income Tax Act, 1961

2. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the

addition of Rs. 61,04,000/-as unexplained by recording incorrect facts and findings and without observing the principles of natural justice.

3. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the addition of Rs. 61,04,000/-as unexplained when the deposit in bank account is out of genuine sources*

4. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts of the case in not reversing the action of Ld. AO in charging interest u/s 234A and 234B of the Act.”*

3. It is noticed that there is a delay of 68 days in filing of this appeal.

The reasons given by the assessee for the delay is reproduced as under:-

“In connection with the said appeal, it is respectfully submitted that filing of appeal was delayed by 68 days since the appellant was not aware that orders under section 250 has been made since they are communicated through mail only and he is not familiar with internet and only his children operates the mail.

Under these circumstances, you are requested to condone the delay in filing the appeal.”

3.1. Considering the explanation of the assessee, we condone the delay.

4. Brief facts of the case:- As per AIR information, before the AO, there was a cash deposit of Rs.61,04,000/- in the saving account of the assessee for the F.Y. 2011-12. The AO issued notices to the assessee as detailed in the assessment order to which there was no compliance. In absence of any explanation, the AO added a sum of Rs.61,04,000/- u/s 69 of the Act and passed assessment order u/s 147/144 of the Act dated 06.09.2019.

5. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A). Here also, the assessee did not comply with the

notices of hearing and therefore the ld. CIT(A) confirmed the addition and also justified the reopening u/s 148 of the Act of the case by the AO and dismissed the appeal of the assessee.

6. Against the order of the ld. CIT(A), the assessee is in appeal before us.

7. The ld. Counsel for the assessee submitted that the assessee is an illiterate person and a sympathetic view may be taken and the matter may be restored back to the file of the ld. CIT(A) for submission on merits and on the jurisdiction for reopening of the case u/s 147 of the Act which was challenged before the ld. CIT(A).

8. The Ld. DR strongly opposed the submission of the assessee and relied upon the orders of the authorities below.

9. We have heard both the parties and perused the material available on record. In this case, it is seen that the assessee neither appeared before the AO nor before the Ld. CIT(A). Considering the fact that there was no effective representation on behalf of the assessee before the authorities below in order to subserve the interests of natural justice and to provide one more 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.

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

Order pronounced in the open court on 13th June, 2024.

Sd/-
[KUL BHARAT]
JUDICIAL MEMBER

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

Dated: 13.06.2024.

SK

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi,