

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

Before Dr. B. R. R. Kumar, Accountant Member,

Sh. Anubhav Sharma, Judicial Member

ITA No. 3625/Del/2023 : Asstt. Year: 2017-18

Jullundur Motor Agency Delhi Ltd., 2E/5, Jhandewalan Extension, Pahar Ganj, Central Delhi, Swami Ram Tirth Nagar, Delhi-110055 (APPELLANT)	Vs	DCIT, Circle-13(1), New Delhi (RESPONDENT)
PAN No. AAACJ2490G		

**Assessee by : Ms. Aditi Gupta, Adv. &
Ms. Nehal Kumar, CA
Revenue by : Ms. Parul Singh, Sr. DR**

Date of Hearing: 19.06.2024

Date of Pronouncement: 21.06.2024

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of National Faceless Appeal Centre (NFAC), Delhi dated 30.10.2023.

2. Following grounds have been raised by the assessee:

"1. That the service of the order and the service of notices issued under section 250 of the Act are not in accordance with the Faceless Appeal Scheme, 2020 and hence, the proceedings are liable to be quashed

2. (a) Without prejudice to above, the Id. CIT(A), NFAC has passed an ex-parte order and has not afforded sufficient opportunity to the appellant, thereby violating the principles of natural justice.

(b) That in this connection, after enablement of the communication window with the Id. CIT(A), NFAC on the e-filing portal, the Id. CIT(A), NFAC has afforded merely 2 hearings to the appellant before passing the order without

giving credence to the adjournment filed by the appellant on 25.10.2023 with a humble request for a final opportunity which was sought on account of the voluminous nature of the submissions & data and more particularly because the appellant did not receive the final notice dated 16.10.2023 issued by Id. CIT(A). NFAC

3. (a) Without prejudice to above, the Id. CIT(A), NFAC has erred on facts and in law in dismissing the appeal of the appellant and sustaining the order passed by the Id. AO under section 143(3) of the Act which is based on incorrect statistical findings, by treating the entire cash deposited during demonetization period as unexplained cash credit under section 68 of the Act & sustaining the addition of Rs. 5,31,06,307 (audited financials reflect cash deposit of 5,12,92,725) without giving credence to the explanations filed before the Id. AO that the entire cash deposited was out of declared turnover and have been duly offered for taxation.

(b) That in this connection, the Id. CIT(A), NFAC has grossly erred on facts in not considering germane the size of the appellant and its vast scale of operations through multiple branches across India

4. (a) Without prejudice to the above, the Id. CIT(A), NFAC has erred in sustaining the addition of cash deposited out of opening cash-in-hand as on 09.11.2016, out of non-specified bank notes and from transactions which were permitted to be undertaken during the demonetization period, without appreciating the facts on record and being cognizant with the audited financial statements as duly certified by the statutory auditors

(b) That further in this connection, the show-cause notice issued by the Id. AO specifically stated to show- cause as to why the cash deposited in specified bank notes [which amounted to Rs. 1,55,17,500) should not be added to income and hence, addition of a higher amount of Rs. 5,31,06,307 by the Id. AO and its sustenance by the Id. CIT(A), NFAC is unwarranted by ignoring the figures as per audited financials duly certified by the statutory auditors.

5. Without prejudice to above, the addition sustained by the Id. CIT(A), NFAC is incorrect on facts and in law more so when the books of account of the appellant have not been rejected under section 145(3) of the Act and the sales of the appellant stands accepted."

3. At ground no. 2(a), the assessee has raised the grounds that the Id. CIT(A), NFAC passed an *ex-parte* order and has not

afforded sufficient opportunity to the appellant thereby violating the principles of natural justice. The Id. AR submitted that the non-compliance of the assessee was not intentional. Compliance could not be made because notices were not received on the registered e-mail IDs of the appellant nor any alert was received. Even the order of Id. CIT(A) was not received on the registered e-mail ID and no alert was received on the registered e-mail ID's being umeshsharma@jmaindia.com and rprabra@jmaindia.com Affidavits from Mr. Umesh Sharma and Mr. R.P. Rabra were filed before the Tribunal.

4. We find that the Id. CIT(A) has summarily affirmed the order of the Assessing Officer. We hold that no prejudice would be caused to the revenue if an opportunity of being heard to the assessee, hence, the matter is being referred to the Id. CIT(A) to issue notices to the valid registered address and on the registered e-mail and adjudicate the issue *de-novo*. The assessee shall not mis-use the opportunity given and shall comply to the notices issued by the revenue authorities promptly.

5. In the result, the appeal of the assessee is allowed for statistical purpose.

Order Pronounced in the Open Court on 21/06/2024.

Sd/-

**(Anubhav Sharma)
Judicial Member**

Dated: 21/06/2024

Subodh Kumar, Sr. PS

Sd/-

**(Dr. B. R. R. Kumar)
Accountant Member**