

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

**BEFORE SH. PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.101/Del/2024
Assessment Year: 2017-18

Agro Haat Shop No. A-1131, New subzi Mandi, New Delhi-110033 PAN No.AAPFA2449G	Vs.	ITO Ward- 36 (2) Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Ritesh Jain, CA Sh. Amit Gandhi, CA
Respondent by	Sh. Mahesh Kumar, CIT DR

Date of hearing:	19/06/2024
Date of Pronouncement:	26/06/2024

ORDER

PER SUDHIR KUMAR, JM:

This appeal by the assessee is directed against the order passed by the National Faceless Appeal Centre [hereinafter referred as 'NFAC'] dated 22.11.2023 pertaining to A.Y.2017-2018 under section 143(3) arises out of the assessment order passed by Income Tax Officer, Ward- 36(2),

Delhi dated 29.12.2019 under section 143 (3) of the Income Tax Act [hereinafter referred as 'the Act'].

2. The brief fact of the case is that assessee was filed its return of income on 31-10-2017 electronically, declaring total income of Rs 4,58650/-. The case was selected for complete scrutiny under CASS. The statutory notice u/s 143(2) dated 16-08-2018 was issued through ITBA Portal. In the response of the show cause notice the assessee submitted the reply but has failed to furnish the requisite details information. The AO assessed the total income Rs 6965973/- of the assessee. Assessee was filed the appeal before the Ld CIT(A). The appeal was dismissed by the Ld CIT(A) vide order dated 29-12-2019.

3. Aggrieved by the order of the lower authorities, the assessee is in appeal before us by raising the following grounds:-

1. *The Order passed u/s 250 by the Commissioner of income-tax (Appeals) Income Tax Department, National Faceless Appeal Centre (NFAC), Delhi, is without granting proper opportunity to therefore is in violation of principles of natural justice. the appellant Rs. 65,32,521/-*

2. *That on the facts and circumstances of the case and in law, the order passed by the learned Commissioner of Income-tax (Appeals) Income Tax Department National Faceless Appeal Centre (NFAC), Delhi is bad both in the eye of law and on facts.*

3. *That on the facts and circumstances of the case and in law, the order passed by the learned Commissioner of Income-tax (Appeals) Income Tax Department National Faceless Appeal Centre (NFAC), Delhi without considering merits on matters raised in grounds of appeal therefore be set aside*

4. *That on the facts and circumstances of the case and in law Ld. That the Ld. Commissioner of Income-tax (Appeals) Income Tax Department National Faceless Appeal Centre (NFAC upholding assessment of Income assessed by Ld. A.O at Rs 69,65,973/-/- as against income returned at Rs 4,58,650/-*

5. *That on the facts and circumstances of the case and in law Ld. That the Ld. Commissioner of Income-tax (Appeals) Income Tax Department National Faceless Appeal Centre (NFAC) confirming additions of Rs. 62,62,369/- out of cash deposits in bank as undisclosed income under section 68 of Income Tax Act, 1961*
6. *That on the facts and circumstances of the case and in law Ld. That the Ld. Commissioner of Income-tax (Appeals) Income Tax Department National Faceless Appeal Centre (NFAC) confirming additions of Rs.62,62,369/- cash recorded in the books of accounts and deposits in bank as undisclosed income under section 68 of Income Tax Act, 1961.*
7. *That on the facts and circumstances of the case and in law Ld. That the Ld. Commissioner of Income-tax (Appeals) Income Tax Department National Faceless Appeal Centre (NFAC) in confirming adhoc disallowance of Rs.2,44,954/- being 30% out of o the total expenditure amounting to Rs.8,16,512/-*

8. That the grounds of appeal as herein are without prejudice to each other.

9. That the appellant craves to add, amend, alter or forgo any ground(s) either before or at the time of hearing of the appeal.

4. We have heard the parties and perused the record.

5. The Ld. Counsel for the assessee has submitted that the Ld. CIT(A) has dismissed the appeal ex-parte as the assessee has changed his previous Counsel due to some certain reason, who look after his income tax returns as well as the appeals before the CIT(A). The notices were sent through e-mail portal to his erstwhile counsel. The assessee could not open the e-filing portal because the password of the portal was not available with him. For that reason the appeal filed before the CIT(A) could not be attended and same was decided by the first appellate authority ex-parte.

6. Ld DR for the Revenue relied upon the respective orders of the lower authorities.

7. We have given a thoughtful consideration to the orders of the authorities below. We are of the considered opinion that an opportunity needs to be given to the assessee to represent his case afresh with relevant documentary evidence. Therefore, in the interest of justice and fair play we restore the issue to the file of the AO to be decided afresh after affording a reasonable and sufficient opportunity of being heard to the assessee.

8. In the result, the appeal is allowed for statistical purpose.

Order pronounced in the open court on 26.06.2024.

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

NEHA, Sr. PS

Date:- .06.2024

Copy forwarded to:

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

Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI