

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

**BEFORE SH. PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**I.T.A. No. 3739/DEL/2023 (A.Y 2016-17)**

Om Prakash Vinod Arora & Co. 210- 211-212, 2 <sup>nd</sup> Floor, Apna Bazar, Gurgaon, Haryana <b>PAN No. BYWPP1228A</b> <b>(APPELLANT)</b>	Vs.	ITO Ward 3(2) Gurgaon, Haryana <b>(RESPONDENT)</b>
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<b>Assessee by :</b>	<b>Sh. M. R. Sahu, CA</b>
<b>Department by:</b>	<b>Sh. Anshul Sr. DR</b>

<b>Date of Hearing</b>	<b>24.06.2024</b>
<b>Date of Pronouncement</b>	<b>26.06.2024</b>

**ORDER**

**PER YOGESH KUMAR U.S., JM**

This appeal is filed by the assessee for Assessment Year 2016-17 against the order of the Ld. CIT(A)/National Faceless Appeal Centre ('NFAC' for short), New Delhi, dated 03/11/2023.

2. The assessee has raised the following grounds of appeal:-

*"1. On the basis of facts and circumstances of the case there is no legal warrant or vaild Justification on the part of learned*

*A.O. to make addition of Rs 87,60,000/- to the returned Income and on the part of CIT (A) in dismissing appeal of the assessee. The action of the authorities below is totally unlawful, unjustified, and unreasonable. The addition of Rs 87,60,000/- is bad in law and deserves to be deleted*

3. Brief facts of the case as mentioned in the order of the CIT(A) are as under:-

*“The appellant had filed his return of Income on 30.03.2017 declaring total income of Rs.2,66,000/- for the assessment year 2016-17. The case was selected for limited scrutiny through CASS. During the assessment proceedings, the Assessing Officer (AO) issued various notices u/s 142(1) of the Income Tax Act, 1961 and a final show cause notice also issued on 30.11.2018 but the appellant did not file any response to the notices. Further, a notice u/s 133(6) was issued to the State Bank of India, calling for Bank Account Statement of the appellant for the F.Y. 2015-16 which was received on 13.12.2018. Further, on perusal of the bank account statement by the AO, the appellant was found to have deposit of Rs. 1,47,00,000/- (approx.) and out of which about 80% of the deposits were in cash. The actual figure of cash deposits could not be ascertained, the bank statements be*

*bulky and could not been generated properly. Accordingly, cash deposits were worked out at Rs.1,17,60,000/-, The appellant in ITR for A.Y. 2016-17 had disclosed cash sale receipts of Rs.30,00,000/-.*

*Moreover, despite having been afforded sufficient opportunities during the proceedings the appellant had failed to make compliance before the AO. Therefore, it was inferred that the appellant had nothing to state and had tried to evade the tax liability by not explaining the source of Cash deposits. Accordingly, the cash deposits of Rs.87,60,000/- [Rs. 1,17,60,000/-minus Rs.30,00,000/-] stand unexplained and the same treated as income from undisclosed sources and was added back to the income of the appellant for taxability as per section 115BBE of the Income Tax Act.”*

4. Aggrieved by the assessment order dated 14/12/2018, the assessee preferred an Appeal before the CIT(A), the Ld. CIT(A) vide order dated 03/11/2023, dismissed the Appeal filed by the assessee ex-parte.
5. Aggrieved by the order of the CIT(A), the assessee preferred the present Appeal on the grounds mentioned above.

6. The Ld. Counsel for the assessee submitted that both the A.O. as well as the CIT(A) have not heard the assessee and the orders have been passed by the Lower Authorities in violation of natural justice, therefore, sought for remanding the matter to the file of the A.O. for fresh adjudication.

7. Per contra, the Ld. Departmental Representative relying on the orders of the Lower Authorities, submitted that sufficient opportunities have been given to the Assessee, but the assessee has not availed the same and remained absent, therefore, sought for dismissal of the Appeal.

8. We have heard both the parties and perused the material available on record. It is evident that both the A.O. and the Ld. CIT(A) have passed the respective orders ex-parte. Further, the Ld. CIT(A) while deciding the Appeal filed by the Assessee has not adjudicated the issues involved in the Appeal on its merit and not decided the Grounds of appeal of the assessee.

9. Considering the above facts and circumstances, we deem it fit to remand the matter to the file of the A.O. for de-novo adjudication. Accordingly, we set aside the order impugned and remand the matter to the file of the A.O. for de-novo adjudication in accordance with law after hearing the Assessee.

10. In the result, the Appeal of the Assessee is partly allowed for statistical purpose.

Order pronounced in the open court on 26th JUNE, 2024.

**Sd/-**

**( PRADIP KUMAR KEDIA )  
ACCOUNTANT MEMBER**

Dated : 26/06/2024

*R.N, Sr. PS\**

**Sd/-**

**(YOGESH KUMAR U.S.)  
JUDICIAL MEMBER**

Copy forwarded to :

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

