

**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. 3675/DEL/2023 (A.Y 2012-13)

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| Mohd. Wasim House No. 08, Gafoor Nagar, Batla House, New Delhi PAN No. AAACA4700C (APPELLANT) | Vs. | Income-tax-Officer Ward 28(4) New Delhi (RESPONDENT) |
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| Assessee by : | Mohd. Wasim (Party in person) |
| Department by: | Sh. Anshul Sr. DR |

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| Date of Hearing | 24.06.2024 |
| Date of Pronouncement | 26.06.2024 |

ORDER

PER YOGESH KUMAR U.S., JM

This appeal is filed by the assessee for Assessment Year 2012-13 against the order of the Ld. CIT(A)/National Faceless Appeal Centre ('NFAC' for short), New Delhi, dated 16/10/2023.

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

"1. That on the facts and circumstances of the case and in law the Id. Commissioner of Income Tax (Appeals)/ National Faceless Appeal Centre (NFAC) erred in passing the order

dated 16.10.2023 (hereafter 'the impugned order') sustaining the addition made by the Id. ITO, Ward -28(4), New Delhi (hereafter 'the Id. AO') amounting to Rs. 1,21,51,238/- in the case of the Appellant against the returned income of Rs. 5,16,813/- resulting into the assessed income of Rs. 1,26,68,051/-.

- 2. That on the facts and circumstances of the case and in law the Ld. CIT(A) erred in passing the impugned order ex-parte without giving proper opportunity to the Appellant in violation of the principles of natural justice.*
- 3. That on the facts and circumstances of the case and in law, the assessment order dated 25.12.2019 (hereafter 'the assessment order') passed under section 147 rws 143(3) of the Act, is illegal and invalid in the eyes of law, since the same was issued without quoting a valid DIN on the body of the assessment order as well as without providing the reasons or obtaining necessary prior approval for such issuance in violation of the CBDT Circular No. 19/2019 dated 14.08.2019.*
- 4. That on the facts and circumstances of the case the Id. CIT(A) erred in summarily dismissing the appeal preferred by the Appellant impugning the assessment order without adjudicating the grounds raised on merits.*
- 5. That on the facts and circumstances of the case and in law the Id. CIT(A) erred in sustaining the addition made by the Id. AO on account of considering the turnover of business at Rs. 54,25,852/- as income of the assessee without reducing the*

purchases and other expenses on the alleged ground that the assessee was not engaged in any business activity.

6. *That on the facts and circumstances of the case and in law the ld. CIT(A) erred in sustaining the addition made by the ld. AO in considering the sale consideration of Rs. 15,80,000/- and Rs. 45,50,000/- received from transfer of immovable properties as income alleging the transactions of sale of immovable property to be bogus.*

7. *That on the facts and circumstances of the case and in law, the ld. CIT(A) erred in sustaining the addition made by the ld. AO in rejecting the Long- Term Capital Loss of Rs. 29,52,000/- incurred on transfer of immovable property alleging that the assessee has not entered into any sale transaction of immovable property during the financial year relevant to the assessment year under consideration.*

8. *That on the facts and circumstances of the case and in law the Id. CIT(A) erred in sustaining the addition made by the Id. AO in considering the value of motor-vehicle of Rs. 5,95,386/- as unexplained investment.”*

3. The Assessee appearing party in person, submitted that the order impugned of the Ld. CIT(A) has been passed ex-parte without giving proper opportunity of hearing to the assessee which is in violation of principles of natural justice, therefore, sought for remanding the matter to the file of the CIT(A).

4. Per contra, the Ld. Departmental Representative relying on the orders of the Lower Authorities sought for dismissal of the Appeal.

5. We have heard both the parties and perused the material available on record. The Ld. CIT(A) while deciding the Appeal of the assessee ex-parte has not adjudicated the issues involved in the Appeal on merit and dismissed the Appeal. Considering the above facts and circumstances, we set aside the order of the Ld. CIT(A) and remand the matter to the file of the CIT(A) for de-novo adjudication of the issues involved in the Appeal. Needless to say, the Ld. CIT(A) shall provide opportunity of being heard to the Assessee before passing the order on the appeal of the Assessee. Accordingly, the Ground No. 2 of the assessee is partly allowed for statistical purpose.

6. Since, we have remanded the matter to the file of the CIT(A) for de-novo adjudication, other grounds of Appeal of the assessee requires no adjudication.

7. 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

