

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

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
MS. MADHUMITA ROY, JUDICIAL MEMBER**

**ITA No.2256/DEL/2024
(Assessment Year: 2020-21)**

Birinder Singh,
U-174, DLF Capital Greens,
Moti Nagar,
Delhi – 110 015.

vs.

DCIT, Circle 43 (1),
Delhi.

(PAN : AAAPS5702P)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Tarandeep Singh, Advocate
REVENUE BY : Shri Kanv Bali, Sr. DR

Date of Hearing : 08.07.2024
Date of Order : 10.07.2024

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal by the assessee is directed against the order of the ld. CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated 18.04.2024 for the assessment year 2020-21.

2. Grounds of appeal taken by the assessee read as under :-

“1. That on facts and in law the impugned order dated 18th April 2024 passed by the Commissioner of Income Tax (Appeals) (hereinafter referred to as the "CIT(A)") is bad in law and void ab initio.

2. That on facts and in law the CIT(A) has erred in:

- (a) Passing a non-speaking order, and
- (b) Relying upon decision of Hon'ble ITAT in case of ITO vs Bhanwar Lal order dated 23-08-2019 in ITA No. 948/Jaipur/2018 without appreciating and noting that this decision is not relevant to the adjudication of issue under consideration.

3. That on facts and in law the CIT(A) has erred in passing the impugned order by violating settled principals of natural justice, i.e inter alia not providing an opportunity of being heard in person.

4. That on facts and in law the CIT(A) has erred in upholding a disallowance of cost of improvement of Rs.5,00,000/- (having indexed value of Rs.13,76,190/- claimed as deduction u/s 48(ii) of the Act by the appellant.

4.1 That on facts and in law the AO 1 CIT(A) have erred in holding 1 upholding that the appellant has not been able to substantiate the basis of its deduction of Rs.13,76,190/- claimed u/s 48(ii) of the Act.

5. That on facts and in law the order of assessment dated 07th September 2022 passed by the AO u/s 143(3) r.w 144B of the Act is bad in law and void ab initio.”

3. Brief facts of the case are that Assessing Officer in this case made addition of Rs.13,76,190/- being variation in respect of issue of disallowance of index cost of improvement in respect of Phase-1.

4. Upon assessee's appeal, ld. CIT (A) confirmed the same.

5. Against this order, assessee has filed appeal before us. We have heard both the parties and perused the records.

6. At the outset, ld. counsel for the assessee submitted that there is gross violation of principles of natural justice. Despite specific request of the

assessee of personal hearing, personal hearing was not granted. He submitted that Rule 12 of the Faceless Assessment Procedure duly provides that where assessee request personal hearing, hearing should be granted by the CIT (A)/NFAC and assessee should be heard.

7. Upon carefully considering the issue and hearing both the parties, we are of the considered opinion that interest of justice would be served if the matter is remitted to the file of ld. CIT (A). Ld. CIT (A) is directed to grant an opportunity of being heard to the assessee and thereafter decide the matter as per law.

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

Order pronounced in the open court on this 10th day of July, 2024.

**Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER**

**sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 10th day of July, 2024
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**