

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

Before Sh. Saktijit Dey, Vice President

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

ITA No. 3939/Del/2023 : Asstt. Year : 2017-18

Kanchan Makan, 174, Avtar Enclave, Paschim Vihar, New Delhi-110063	Vs.	Income Tax Officer, Ward-34(2), New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AAUPM8314K		

Assessee by : Sh. S. K. Goyal, CA &

Sh. Mohit Gupta, CA

Revenue by : Ms. Parul Singh, Sr. DR

Date of Hearing: 09.07.2024

Date of Pronouncement: 23.07.2024
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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 28.11.2023.

2. Following grounds have been raised by the assessee:

"1. That on the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals) [CIT(A)] is bad, both in the eye of law and on the facts.

2. That on the facts and circumstances of the case and the provision of law Ld CIT(A) has erred in sustaining the assessment framed without confronting the fact that the assessment order passed is against the act and against the various binding decisions of higher authorities.

3. That on the facts and circumstances of the case and provisions of the law Ld CIT(A) has erred in arbitrarily rejecting the explanation and evidences brought on record by the assessee to prove the source of cash deposits which is in violation of the principle of natural justice.

4. That on the facts and circumstances of the case and provisions of the law Ld CIT(A) has erred in passing the order without even considering the replies/submissions/ documents filed by the assessee.

5. That on the facts and the circumstances of the case and the provisions of the law, Ld CIT(A) has failed to appreciate that the Ld AO has erred in forming an incorrect opinion without confronting the same and in using the same adversely without providing the reasonable opportunity of defending, which inaction of the AO makes the assessment proceedings and consequential assessment order as null and void.

6. On the facts and circumstances of the case, the Ld CIT(A) has erred both on facts and in law in sustaining the addition of Rs. 2,58,91,183/-, made by the A.O., under section 69A of the Act, on account of total credits appearing in the bank account(s) of the assessee during the year under consideration."

3. We have examined the ground taken up by the assessee and heard the submissions of both the parties. In this case, the assessment has been completed *ex-parte* and the assessee has filed additional evidences before the Id. CIT(A) for admission u/s 46A of the Income Tax Act, 1961 which has been rejected by the Id. CIT(A). The Id. CIT(A) held that the assessee has failed to discharge the initial onus of explaining the sources of fund in the bank account. Before us, the assessee argued that the same could not be provided before the AO as the assessee was prevented by sufficient cause from producing the evidences before the AO. It was argued that the notices were issued to the old address which have not been received by the assessee which led to passing an *ex-parte* order. Hence, keeping in view the facts on record, we consider it to be a fit case to remand the matter to the file of the AO for passing an order *de-novo* in accordance with the provisions of Income Tax Act.

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

Order Pronounced in the Open Court on 23/07/2024.

Sd/-

(Saktijit Dey)
Vice President

Dated: 23/07/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

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

ASSISTANT REGISTRAR