

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

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
and  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No.571/DEL/2024  
(Assessment Year: 2016-17)**

Rahul Sibal,  
218 A, Tower 2, 18<sup>th</sup> Floor,  
Magnolias DLF Golf Course,  
DLF Phase 5, Golf Course Road,  
Gurgaon – 122 003 (Haryana).

vs.

ITO, Ward 3 (1),  
Gurgaon.

**(PAN : FTQPS8636N)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Ms. Ananya Kapoor, Advocate  
REVENUE BY : Shri Brij Mohan Singh, Sr. DR

Date of Hearing : 25.07.2024  
Date of Order : 25.07.2024

**ORDER**

**PER SHAMIM YAHYA, ACCOUNTANT MEMBER**

This appeal by the assessee is directed against the order of the Id. CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated 31.07.2023 for the assessment year 2016-17.

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

“1. That the Assessment Order dated 23.02.2022 passed under Section 147/144 rws 144B of the Income Tax Act, 1961 ('the Act') for Assessment Year ('AY') 2016-17 by the Assessing Officer ('AO') as upheld by the National Faceless Appeal Centre (hereinafter referred to as 'CIT(A)') vide order

dated 31.07.2023 is illegal, bad in law, without jurisdiction, time-barred, and liable to be quashed.

2. That, in view of the facts and circumstances of the case, the order of the AO dated 23.02.2022 and CIT(A) dated 31.07.2023 has been passed without giving the Assessee reasonable opportunity to present its case and not providing him with the opportunity of personal hearing and hence, violating principles of Natural Justice and causing grave prejudice to the Assessee.

3. That, in view of the facts and circumstances of the case, the AO/CIT(A) has erred in not appreciating that the non-appearance is completely unintentional and for bona-fide reasons only.

4. That, in view of the facts and circumstances of the case, the non-appearance of the Assessee is owing to the ill-health and demise of his father as well as his own ill-health and hence the matter could not be attended for bona-fide reasons, which were beyond the control of the Assessee.

5. That, in view of the facts and circumstances of the case, in the interest of justice it is prayed that the matter may kindly be remanded to AO/CIT(A) for adjudication of the case on merits and the Assessee may kindly be permitted to represent its case before the AO/CIT(A) on the merits.

6. That, in view of the facts and circumstances of the case, the order of the CIT(A) dated 31.07.2023 is an ex-parte order and in view of Section 250(6), it is incumbent upon the CIT(A) to adjudicate on the merits of the case, which has not been done in the present case.

7. That in the view of facts and circumstances of the case, the various observations made by AO are incorrect, illegal, and bad in law & based on surmise and conjectures.

8. That, in view of the facts and circumstances of the case, the Assessee was prevented' by reasonable and sufficient cause for not producing relevant documents/evidence/material and details before the AO and the CIT(A).

9. That in view of the facts and circumstances of the case and in law, the AO has grossly erred in making an addition of Rs.2,81,50,000/-. The addition made is illegal and is liable to be deleted.

10. That in view of the facts and circumstances of the case and in law, the AO has erred in charging the interest under Section 234A and 234B of the Act. The interest has also been wrongly worked out. The AO has also erred in initiating the penalty proceedings under 271 (1)(c) of the Act.”

3. In this case, in an order passed under section 144 of the Income-tax Act, 1961, Assessing Officer made addition of long term capital gain from sale of property of Rs.2,81,50,000/-.

4. Upon assessee's appeal, ld. CIT (A) noted that assessee has not made any submission and has not made any compliance. Hence, he confirmed the AO's order by holding that assessee is not interested in prosecuting the appeal,

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

6. Ld. Counsel for the assessee submitted that the person in this case was busy taking care of his father who was seriously ill, hence notices could not be complied with. He prayed that an opportunity may be granted to canvass the case.

7. Ld. DR for the Revenue did not have any serious objection to this proposition.

8. Accordingly, in the interest of justice, we remit the issue to the file of AO. AO is directed to pass an order afresh after giving the assessee proper opportunity of being heard.

9. In the result, the appeal of the assessee stands allowed for statistical purposes.

**Order pronounced in the open court on this 25<sup>th</sup> day of July, 2024 after the conclusion of the hearing.**

**Sd/-  
(VIMAL KUMAR)  
JUDICIAL MEMBER**

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

**Dated the 25<sup>TH</sup> day of July, 2024  
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Copy forwarded to:

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

**AR, ITAT  
NEW DELHI.**