

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

**BEFORE SHRI G. S. PANNU, VICE PRESIDENT AND  
MS. MADHUMITA ROY, JUDICIAL MEMBER**

**I.T.A. No. 172/Del/2024  
(Assessment Year : 2021-22)**

Kritika Jain  
C/o. DS Legal &  
Associates B-50, LGF  
South Extention-II,  
New Delhi-110049

Vs. ITO  
Ward – 36(1)  
New Delhi

**PAN: AFTPA 6657 B**

**(Appellant)**

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**(Respondent)**

**Appellant by : Shri Shaantanu Jain, Adv.  
Respondent by : Ms. Rishpal Bedi, CIT-D.R.**

**Date of Hearing : 03.07.2024  
Date of Pronouncement : 24.07.2024**

ORDER

**PER MS. MADHUMITA ROY – JUDICIAL MEMBER :**

The instant appeal filed by the assessee is directed against the order dated 29.12.2023 passed by the Ld. Commissioner of Income Tax (Appeals) – NFAC, Delhi under Section 250 of the Income Tax Act, 1961 (hereinafter referred as to 'the Act') arising out of the order dated 26.12.2022 passed by the Assessing Unit, Income Tax Department under Section 143(3) of the Act for Assessment Year 2021-22.

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2. Assessee has preferred an application for admission of additional ground to this effect that the Learned CIT(A) has erred in law in not allowing the additional evidence which was filed by way of an application under Rule 46A of the Income Tax Rules 1962. Further that, no remand report has been called for by the CIT(A) prior to passing the order impugned before us, without any basis and contrary to law. In support of this additional ground, he has relied upon the judgment passed by the Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. vs. Commissioner of Income Tax, reported in [1998] 229 ITR 383 (SC) as the same was not there before the authorities below. Moreso, this is a legal ground and no fresh fact needs to be investigated. Such prayer made by the Learned AR has not been objected effectively by the Learned DR. As this particular ground goes to the root of the matter in view of the judgment relied upon by the Learned AR passed by the Hon'ble Apex Court in the case of NTPC Ltd. (supra), we admit the same and proceed to deal with the appeal itself.

3. At the time of hearing of the instant appeal, Learned Counsel appearing for the assessee submitted before us that before the Learned CIT(A), the assessee though made an application for admission of additional evidences under Rule 46A of the Income Tax Rules, 1962 dated 28.12.2023 appearing at pages 371 to 374 of the paper book filed before us in regard to the issues arising out of the order passed by the Learned AO under Section 143(3)/144B of the Act upon making addition on account of bogus purchases to the tune of Rs. 14,75,55,274/- the same

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was not admitted and the order of addition stood confirmed by the First Appellate Authority. Hence, the instant appeal before us.

4. It is further submitted out by the AR that a show-cause was issued to the assessee on 09.12.2022 fixing the matter on 14.12.2022 when the assessee sought for adjournment for two days, on the same day, the Learned AO closed the proceedings itself and ultimately, order was passed upon making addition in the hands of the assessee. Before the First Appellate Authority, certain documents mentioned in the said application appearing at page 372 of the paper book filed before us sought to be relied upon by the assessee for effective adjudication of the matter which could not be filed before the Assessing Officer. In support of such application made by the assessee before the First Appellate Authority, the several judgments were also relied upon. However, the Learned CIT(A) has not admitted the same violating the principle of natural justice as the assessee has not been given a fair chance to agitate his grievances effectively. Had these documents being admitted by the Learned CIT(A), the result in the appeal would have been otherwise upon consideration of the same by the CIT(A) which goes to the root of the matter in favour of the assessee and therefore, this opportunity has been prayed before us to remit the issue to the file of the Learned AO with a direction upon him to admit those additional evidences and to proceed with the appeal on merit. The Learned DR however, has not been able to controvert such submissions made by Learned AR.

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5. Having heard the Learned Counsels appearing for the parties and having regard to the facts and circumstances of the case, we find no reason for not admitting the additional evidences which were placed before the Learned CIT(A) by way of an application under Rule 46A of the Income Tax Rules, 1962 which has been claimed to be pertinent documents for proper adjudication of the matter on merit. Thus, under this particular facts and circumstances of the matter, we quash the order passed by the Learned CIT(A) and remit the issue to the file of the Learned CIT(A) for adjudication of the matter on merit upon admitting the additional evidences as already placed on record by the assessee by way of an application under Rule 46 of the Income Tax Rules, 1962 dated 28.12.2023. The Learned CIT(A) is further directed to grant and opportunity of being heard to the assessee and to pass a reasoned order strictly in accordance with law.

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

This Order pronounced in Open Court on 24/07/2024

Sd/-

(G. S. PANNU)  
VICE PRESIDENT

Dated 24/07/2024

*Priti Yadav, Sr.PS\**

Sd/-

(Ms. MADHUMITA ROY)  
JUDICIAL MEMBER

**Copy forwarded to:**

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI