

**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.1072/DEL/2024
(Assessment Year: 2017-18)**

Raj Enterprises,
123, Kirti Nagar, Sector 15,
Gurgaon – 122 001 (Uttar Pradesh).

vs.

ITO, Ward 3 (4),
Gurgaon.

(PAN : AATFR7534R)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Mahavir Singh, 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 16.01.2024 for the assessment year 2017-18.

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

“1. The Ld. CIT(A) has erred in law as well as on facts in dismissing the appeal in a summary manner without adjudicating the grounds on the basis of documents submitted as additional evidence during appellate proceedings.

2. The LD. CIT(A) has failed to appreciate the plain fact that income has been taxed at Rs. 79695160/- in place of total

cash and credit entries in bank account were 3,98,47,581/- as raised in our second ground of appeal.

3. The Ld. CIT(A) has rejected the appeal of the appellant by completely ignoring the additional evidences produced during appeal proceedings.

4. The Ld. CIT(A) has erred in ignoring the evidences produced regarding purchase and sale of goods which was only one item produced by the supplier as per tender conditions of the Transport department of Govt of Haryana.

5. The Ld. CIT(A) has further failed to notice that all sales were made on behalf of Transport Department of Govt of Haryana.

6. The Ld. CIT(A) has erred in holding that stock details were not maintained under the circumstances that there was only one item purchased and sold under the supervision of Govt of Haryana and ledger account of purchase and sale were akin to stock register.

7. The Ld. CIT(A) has erred in rejecting the appeal especially when he has not questioned the authenticity of sale and purchase documents which were produced during appellate proceedings. Hence addition on account of cash of Rs.2,27,83,220/- {19803720+1415200+1531000} deposited out of sales made was wrongly confirmed.

8. The Ld. CIT(A) has failed to recognise that all credit entries by RTGS/Cheques were from sister concerns or from sale proceeds and confirmations were filed as additional evidence. Hence confirming the addition of Rs.1,70,97,659/- made on this score is without appreciation of documentary evidences produced.

9. The Ld. A.O. has issued show cause notice for an amount of Rs.2,14,41,420/- on account of cash deposited in the bank account only and hence addition of Rs.1,70,97,659/- on account of credit entries has been made without any notice. This addition is illegal and against principles of natural justice.

10. The Ld. A.O. has not granted proper opportunity to the assessee at the time of assessment and hence assessment was bad in law. First notice dated 24-06-2019 was for 26-06-2019, second notice dated 26-06-2019 was for 27-06-2019 and third notice dated 09-09-2019 was for 13-09-2019.

11. The assessment framed by ITO Ward 3(4) Gurgaon was without jurisdiction as earlier notices were issued by ITO Ward 3(1) Gurgaon and there is no order of transfer of case from ITO 3 (1) to ITO 3(4) Gurgaon.”

3. In this case, in an order passed under section 144 of the of the Income-tax Act, 1961, Assessing Officer in an ex-parte order made addition of Rs.3,98,47,581/-.

4. Upon assessee's appeal, ld. CIT (A) noted that assessee has not made any submission on queries. He observed that assessee is not interested in prosecuting the appeal. Hence, he confirmed the AO's order.

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 AO has not given adequate opportunity to the assessee. Notices were given for compliance in a day or two which the assessee could not comply in a short notice. He further submitted that additional evidences were furnished before the ld. CIT(A) who has not dealt with the same. Ld. Counsel for the assessee prayed that an opportunity may be granted to canvass the case properly.

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 25th day of July, 2024 after the conclusion of the hearing.

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

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

**Dated the 25TH 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.**