

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

**BEFORE,  
SHRI SAKTIJIT DEY, VICE PRESIDENT  
AND  
SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.3486/Del/2023  
(ASSESSMENT YEAR 2021-22)**

Abhay Rai G-28, Syndicate House Inderlok New Delhi-110 035 PAN:AFYPR 8845M <b>(Appellant)</b>	Vs.	Income Tax Officer Ward-36(1) Delhi <b>(Respondent)</b>
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Assessee by	Shri Gurjeet Singh, CA
Respondent by	Shri Kanv Bali, Sr. DR

Date of Hearing	24/07/2024
Date of Pronouncement	31/07/2024

**ORDER**

**PER S.RIFAUR RAHMAN, AM:**

1. This appeal has been filed by the Assessee against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) Delhi ["Ld. CIT(A)", for short], dated 30/09/2023 for Assessment Year 2021-22.

2. The assessee has raised the following grounds of appeal:-

*"1. Because the action for initiation, continuation and conclusion of assessment proceedings u/s 144 r.w.s 1443 is being challenged on facts and law.*

*2. Because the action is being challenged on facts and law for not providing reasonable opportunity of being heard. The assessment order*

*being passed is in violation of the principle of natural justice and without giving adequate time and opportunity to the appellant to present the case.*

*3. Because the action is being challenged on facts and law for making an addition of Rs. 1,46,80,320/- (i.e. 8% of total turnover of Rs. 18,35,03,996) on account of treating genuine purchases as bogus purchases after rejecting books of accounts u/s 145(3) of the Income Tax Act, 1961.*

*4. Because the action is being challenged on facts and law for making an addition of Rs 1,46,80,320/- (i.e. 8% of total turnover of Rs. 18,35,113,996) after rejecting Books of Accounts u/s 145(3) overlooking the revised return filed u/s 139(5) by assessee.*

*5. Because the action is being challenged on facts and law for not giving the benefit of income declared in return u/s 139 amounting Rs. 11,51,930 against addition of Rs. 1,46,80,320/-.*

*6. Because the action is being challenged on facts and law for not allowing deduction claimed amounting Rs.13,07,801/- under chapter VIA.*

*7. For any consequential relief and/or legal claim arising out of this appeal and for any addition, deletion, amendment and modification in the grounds of appeal before the disposal of the same in the interest of substantial justice to the assessee.”*

**3.** At the time of hearing, the Ld. AR submitted that the assessment was completed u/s 144 of the Income Tax Act, 1961 ('the Act' for short) due to non-compliance on the part of the assessee before the Assessing Officer and the Assessing Officer has completed the assessment by treating the purchases as bogus purchases and determined G.P. @ 8% without giving any opportunity to the assessee. Further, he agreed that the assessee has filed an appeal before the CIT(A) and subsequently, the case was transferred to NFAC Delhi and NFAC has issued several notices, however, he submitted that assessee has not received the relevant notices for hearing and Ld. CIT(A) has sustained the

addition by relying on the Assessment Order. He prayed that this issue may be remitted back to the file of the Ld. CIT(A) for fresh adjudication.

**4.** On the other hand, the DR objected to the above submissions and submitted that the assessee is not complied to the various notices issued by AO as well as Ld. CIT(A) and extending one more opportunity to the assessee is not justified.

**5.** Considered the rival submissions and material placed on record, we observed that it is fact on record that the assessment was completed u/s 144 of the Act based on best judgment assessment due to non compliance on the part of the assessee and further we observed that even before the Ld. CIT(A), the assessee has not submitted any information and not complied to the various notices issued, however, the assessee submits before us that assessee has not received notices. After considering the facts available on record, in our considered view, the assessee may be given one more opportunity to make the case on merit and also the facts on record that Ld. CIT(A) has decided the issue without hearing the assessee on merit. To meet the ends of justice, we are inclined to remit this issue back to the file of Ld. CIT(A) to adjudicate the issue on merit after giving proper opportunities of being heard to the assessee. We direct the assessee to comply and cooperate with the authorities without taking any adjournment

Accordingly, the appeal filed by the assessee is allowed for statistical purposes.

**6.** In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 24<sup>th</sup> July, 2024.

Sd/-

**(SAKTIJIT DEY)  
VICE PRESIDENT**

Sd/-

**(S.RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

Dated: 24/07/2024

*Pk/sps*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI