

**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.3532/Del/2023  
(ASSESSMENT YEAR 2017-18)**

Akshay Sabharwal W1C-031, Wellington Estate Tower 1C DLF PHASE-5 Gurgaon-122 009 PAN:ALPPS 1120H <b>(Appellant)</b>	Vs.	Income Tax Officer Ward-1(1) Delhi <b>(Respondent)</b>
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Assessee by	Shri Shivam Garg, Adv. Shri Raghav Sharma, Adv.
Respondent by	Shri Kanv Bali, Sr. DR

Date of Hearing	25/07/2024
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 25/10/2023 for Assessment Year 2017-18.

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

*"1. On the facts and circumstances of the case, the order of CIT(A) is bad in law as well as on facts.*

2 On the facts and circumstances of the case, the order of Ld. AO as affirmed by CIT(A) is void-ab-initio as no notice under section 143(2) has ever been issued by new incumbent, upon the transfer of jurisdiction.

3 On the facts and circumstances of the case, the Id. CIT(A) erred in sustaining the ex-parte order of the AO without appreciating the facts and circumstances of the case.

4 The Id. CIT(A), instead of deciding the appeal, ought to have directed the assessee to file revised grounds of appeal, guiding the assessee in the interest of justice.

5 On the facts and circumstances of the case, the Ld. CIT (A) has further erred in discarding the additional evidences filed by the assessee, without obtaining any remand report from the AO qua the additional evidences.

6 On the facts and circumstances of the case, the observation of CIT(A) that assessee did not file documentary evidences or written submissions is factually incorrect.

7 The appellant craves leave to add, amend, alter, vary and/or withdraw any or all the above grounds of appeal before or at the time of hearing of the appeal.”

**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 treating as disputed purchase and determined G.P. @ 8% without giving any opportunity of the assessee. Further, he submitted and 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, assessee has not received the relevant notices for hearing and Ld. CIT(A) has decided the issue on merit. He prayed that this issue may be remitted back to the file of the Ld. CIT(A) for fresh

adjudication after giving opportunity of being heard to the assessee.

**4.** On the other hand, the DR objected to the above submissions and submitted that the assessee is not complied to the various notices before AO as well as Ld. CIT(A) and extending one more opportunity 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 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 this fact 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. 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 31<sup>st</sup> July, 2024.

Sd/-

**(SAKTIJIT DEY)**  
**VICE PRESIDENT**

Sd/-

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

Dated: 31/07/2024

*Pk/sps*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI