

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No. 599/DEL/2024
Assessment Year: 2013-14**

Kusham, Vill. Odhi The Bawal Rewar, Rewari-123401. PAN- JJHPK 4390 E	<u>Vs</u>	Income-tax Officer, Ward-2, Rewari.
APPELLANT		RESPONDENT
Appellant by	Shri Anand Gupta, Adv.	
Respondent by	Ms. Anupma Singla, Sr. DR	
Date of hearing	01.08.2024	
Date of pronouncement	01.08.2024	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the National Faceless Appeal Centre (NFAC), Delhi, dated 27.12.2023, pertaining to the assessment year 2013-14. The assessee has raised following grounds of appeal:

“1. The action of the learned Commissioner of Income Tax (Appeal) (NFAC), New Delhi in passing the order under section 250 of the Income

Tax Act, 1961, against the assessee is unjust, arbitrary and deserves to be quashed.

2. That his action of not providing proper opportunity of being heard and dismissing the appeal on the basis that no representation has been made by the assessee, despite the fact that the assessee has not received any notice for hearing on her address mentioned in form 35 Where it is fact that in form 35" it is mentioned that any notice and communication may to be send on mail - NO".

3. That the action of Ld. Assessing Officer in holding that the assessee did not comply with the notices served on various dates were abusive and is totally wrong and his action in passing the order under section 147/ 144 of the Act without servicing the notice under section 148 of the act on the assessee is illegal, arbitrary, void-ab-initio and deserves to be quashed.

4. That the action of Ld. Assessing Officer erred in treating the investment in agriculture land amounting Rs. 63886720/- as unexplained money in terms of section 69 of the Act is unjust, illogical and arbitrary and deserves to be quashed.

5. Appellant craves leave to add, alter, delete or modify and/or withdraw grounds of appeal up to the date of hearing of the appeal.”

2. Facts, in brief, are that the AO noticed that during A.Y. 2013-14 assessee had purchased an immovable property for a consideration of Rs. 2,47,96,873/-. The status of filing return of income could not be ascertained due to lack of availability of PAN of the assessee. Therefore, the case was re-opened and notice u/s 148 of the Act was issued. The assessee did not respond to the statutory notices issued by the AO. The AO completed the assessment u/s 144/147 of the Income-tax Act, 1961 (the “Act”) by adding Rs. 63,86,718/- as unexplained investment u/s 69 of the Act. Aggrieved against this the assessee preferred appeal to the learned CIT(Appeals) who dismissed the appeal by upholding the order of AO. Aggrieved against this, the assessee is in appeal before this Tribunal.

3. Learned counsel for the assessee submitted that assessee is a house wife. She has no sources of income except agriculture income of her husband. During the year under consideration she had purchased agriculture land at village Oddhi along with her sister in law, wherein her share was Rs 63,86,718/-. The whole payment was transferred from the bank account of the assessee. The same was transferred by her father-in-law in her joint bank account along with her Husband Sh. Rajesh. No notice u/s 148 of the Act was received by the assessee before finalization of the assessment. The matter come to the knowledge of the assessee for the first time when notice u/s 142(1) of the Act was served on 14.03.2022 to her by hand. In response thereto she approached to the AO on 21/03/2022 and produced documents. However, the AO refused to entertain the same and passed ex parte order us 147/144. Before First Appellate Authority vide Form 35 the assessee had prayed for service of notice by post and not by any other mode. The assessee did not receive any notice for the hearing of appeal before the First Appellate Authority. All notices seem to be issued on mail but the same were not in the knowledge of the assessee. The CIT (Appeal) has passed ex parte order in dismissing the assessee's appeal. The assessee is not a regular assessee and she was not aware all about that. Learned counsel prayed that ex parte order passed by the learned First Appellate Authority may be set aside and the matter may be restored to the file of learned CIT(A) for fresh adjudication on merits after affording reasonable opportunity of being heard to the assessee.

4. The learned DR opposed the submissions and submitted that assessee has been thoroughly negligent in pursuing her case.

5. We have heard rival submissions and perused the material available on record. The stand of the assessee is that in reassessment proceedings, in response to notice u/s 142(1) of the Act, she had appeared and produced relevant documents

but the same were refused to entertain by the Assessing Authority. In appeal before the learned First Appellate Authority no physical notice of hearing was ever received by the assessee. The learned CIT(A) dismissed the appeal of the assessee, ex parte, without adverting on merit of the case. Considering the totality of facts of the present case, in order to sub serve the interests of natural justice, we hereby set aside the order of learned CIT(A) and restore the matter to the file of learned First Appellate Authority for fresh decision, after affording adequate opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.

6. Appeal is allowed for statistical purposes.

Order pronounced in open court on 01.08.2024.

Sd/-
(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI