

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "H", NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER

	ITA NO. 131/Del/2024	
	A.YR. : 2017-18	
Sh. Anil Dugal, A-22, Rao Tula Ram Marg, Westend Colony, New Delhi – 110 021 (PAN: AAAPD2869E)	VS.	DCIT, Circle 62(1), New Delhi – 110 002
(APPELLANT)		(RESPONDENT)

Appellant by : Sh. R.S. Singhvi, CA & Sh. Rajat
Garg, CA
Respondent by : Ms. Anusha Khurana, CIT(DR)

Date of hearing : 05.08.2024
Date of pronouncement : 07.08.2024

ORDER

PER SHAMIM YAHYA, AM :

The Assessee has filed the instant Appeal against the Order of the Ld. CIT(A)/National Faceless Appeal Centre (NFAC), Delhi dated 22.11.2023, relating to assessment year 2017-18 on the following grounds:-

1. That in framing the impugned order, Assessing Officer has made an addition of Rs. 11,06,76,624/- towards unsecured loans treating the same as unexplained credits u/s. 68 of the Act on the basis of

- assumptions and presumptions without considering the facts and circumstances of the case. This imaginary addition is bad in law.
2. That in framing the impugned order, Assessing Officer has made addition of Rs. 2,24,10,913/- on account of income from contract business as adhoc addition while the audited Balance Sheet and Profit and Loss Account are already placed on record to AO and that too by recording incorrect facts and findings and without giving adequate opportunity of being heard and without granting opportunity of cross examination of the entire material used against the assessee and without observing principles of natural justice. This imaginary addition is bad in law.
 3. That in framing the impugned order, Assessing Officer has made another addition of Rs. 9,99,000/- treating the same as unexplained cash credits u/s. 68 of the I.T. Act, 1961 on basis of assumptions and presumptions without considering the facts and circumstances of the case. This imaginary addition is bad in law.
 4. That in framing the impugned order, Assessing Officer has made another addition of Rs. 49,72,987/- on account of interest received on FDR which was already credited in Profit and Loss Account and included in Total Income of the assessee. The Assessing Officer has considered the same as income from other sources on basis of assumptions and presumptions without considering the facts and circumstances of the case. This imaginary addition is bad in law.
 5. Thus, aggrieved by the impugned order, the Appellant is filing the present appeal on the grounds in Grounds of Appeal, which are independent of and without prejudice to one another.
 6. That having regard to the facts and circumstances of the case, AO has erred in law and on facts in passing assessment order u/s. 144 and that too without considering material and reply on record.

7. That the Assessing Officer framed the impugned assessment order by recording incorrect facts and findings and without giving adequate opportunity of hearing and without granting the opportunity of cross examination of the entire material used against the assessee and without observing the principles of natural justice.
8. That having regard to the facts and circumstances of the case, the AO has erred in law and on facts in passing impugned assessment order and reasons are recorded without jurisdiction and without independent application of mind.
9. That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeals at the time of hearing and all the above grounds are without prejudice to each other.

2. In the instant case an order u/s. 144 of the Income Tax Act, 1961 dated 19.12.2019 was passed by the Assessing Officer by making various additions amounting to Rs. 13,90,59,524/-. Assessing Officer noted lack of cooperation on the part of the assessee during the assessment proceedings. Upon assessee's appeal, Ld. CIT(A)/NFAC, noted that notices of hearing were un-complied with, hence, he dismissed the appeal of the assessee on account of non-prosecution vide its order dated 22.11.2023. Against the order of the Ld. CIT(A)/NFAC, Delhi, assessee is appeal before the Tribunal.

3. We have heard both the parties and perused the relevant records. Ld. Counsel for the assessee submitted that it was due to Covid Period that assessee could not canvass the case properly before the Assessing Officer. Similarly, Ld. CIT(A) has not decided the appeal on merits, but dismissed the same on account of non-prosecution. Therefore, he prayed an opportunity may be given to the assessee to canvass the case properly.

4. Per contra, Ld. CIT(DR) objected to the request of the Ld. AR by pointing out that several opportunities were given by the authorities below.

5. Having heard the rival contentions and after perusing the records. We are of the view that Ld. CIT(A) has no power to dismiss the appeal on account of non-prosecution. Therefore, in our considered and in the interest of justice, the matter may be remitted back to the file of the Assessing Officer with the directions to pass an order on merits, after giving adequate opportunity of being heard to the assessee. We hold and direct accordingly.

6. In the result, the Appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the Open Court on 07/08/2024.

Sd/-

Sd/-

(SUDHIR PAREEK)
JUDICIAL MEMBER

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

SRB

Copy forwarded to:-

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar