

**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.1988/Del/2024, A.Y.2017-18

Kamal Kumar Batra 2/103, Subhash Nagar, New Delhi PAN: AFBPB1050M	vs.	ACIT, Circle 45(1), Delhi
(Appellant)		(Respondent)

Appellant by	Sh.V. Rajakumar, Advocate
Respondent by	Ms. Anupama Singla, Sr. DR

Date of Hearing	01/08/2024
Date of Pronouncement	08/08/2024

ORDER

PER AVDHESH KUMAR MISHRA, AM

This appeal of the Assessment Year (In short, the 'AY') 2017-18 preferred by the assessee is directed against the order dated 30.03.2024 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), New Delhi [In short, the 'CIT(A)'].

2. Following grounds have been raised by the assessee: -

“1. That on the facts and circumstances of the case, the action of the learned CIT(A) in confirming the action of the learned Assessing Officer (Asst. Commissioner of Income Tax) treating a sum of Rs.32,00,500/- deposited in Bank as unexplained Cash Credits u/s 68 of the Income Tax Act, 1961 and taxed as per provision of section 115BBE is bad both in the eyes of law and on facts.

2. That on the facts and circumstances of the case, the action of the learned CIT(A) in ignoring letter dated 27/03/2024 requesting for adjournment and all our earlier written submissions dated 03/11/2021 and 23/11/2021 is bad both in the eyes of law and on facts.

3. That the appellant craved leave to add/alter any/all grounds of appeal before or at the time of hearing of the appeal.”

3. The relevant facts giving rise to this appeal are that the appellant/assessee, Proprietor of Hiltop Refrigeration, filed his Income Tax Return (In short, the 'ITR') declaring income of Rs.2,09,68,630/- on 31.10.2017. The case was picked up for scrutiny. Consequentially, the assessment was completed at income of Rs.2,41,69,130/- vide order dated 30.12.2019 passed under section 143(3) of the Income Tax Act, 1961 (In short, the 'Act'). The Assessing Officer (In short, the 'AO') treated cash deposit of Rs.32,00,500/- in the bank account as unexplained and taxed it accordingly. Aggrieved, the assessee filed appeal before the Ld. CIT(A), who dismissed it due to non-prosecution.

4. At the outset, the Ld. Counsel submitted that the Ld. CIT(A) had disposed of the appeal without taking cognizance of the appellant/assessee's request for adjournment filed through email

on March, 27 at 5.20 PM. The Ld. AR placed the copy of the email to demonstrate that the appellant/ assessee had duly sought adjournment well in time; however, the Ld. CIT(A) did not take any cognizance of the same and decided the appeal ex-parte. The Ld. AR prayed for setting aside the impugned order and restoring the matter back to the Ld. CIT(A) for adjudication on merit.

5. The Ld. Sr DR, placing reliance on the finding of the CIT(A), submitted that the Ld. CIT(A) had sent the notices on the email provided by the appellant/assessee and therefore, the appellant/ assessee's request for setting aside the case and restoring the matter back to the Ld. CIT(A) had not have any merit. In rejoinder, the Ld. Counsel submitted that the appellant/assessee's non-compliance during the appellate proceedings was similar to that of the non-cognizance of the adjournment application sent through email to the Ld. CIT(A).

6. We have heard both the parties and perused the material available on the record. From perusal of the appellate order, it is evident that the Ld. CIT(A) has not decided the case on merit. Hence, in the interest of justice and facts in entirety, we are of the considered view that the appellant/assessee deserves reasonable

opportunity of being heard to make shortcomings or non-compliances. In view thereof, without offering any comment on merit of the case, we deem it fit to set aside the impugned order and remit the matter back to the file of the CIT(A) for de-novo consideration. The appellant/assessee should ensure compliances during the set-aside proceeding before the CIT(A).

7. In view of the above, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in open Court on 08th August, 2024

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

Sd/-

**(AVDRESH KUMAR MISHRA)
ACCOUNTANT MEMBER**

Dated:08/08/2024
Binita, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT
4. CIT(Appeals)
5. CIT-DR

ASSISTANT REGISTRAR
ITAT, NEW DELHI