

**IN THE INCOME TAX APPELLATE TRIBUNAL,**

**DELHI BENCH: 'H' NEW DELHI**

**BEFORE SHRI S RIFAUH RAHMAN, ACCOUNTANT MEMBER  
AND  
MS MADHUMITA ROY, JUDICIAL MEMBER**

ITA No. 865/DEL/2024

Assessment Year: 2017-18

VIJENDER KUMAR JAIN 488/28, WEST RAM NAGAR, SONEPAT, HARYANA- 131001	<b>Vs.</b>	INCOME TAX OFFICER WARD 5, SONEPAT, HARYANA
<b>PAN :ADGPJ9158D</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Ritesh Kumar Gupta, Advocate
Department by	Amit Katoch, SR DR

Date of hearing	30.05.2024
Date of pronouncement	14.08.2024

**ORDER**

**PER S RIFAUH RAHMAN, ACCOUNTANT MEMBER**

The present appeal is preferred by the assessee against the order of National Faceless Appeal Centre(NFAC), Delhi, order dated 27.12.2023.

2. It is observed that the name mentioned in the order passed u/s 250 of the Act is enclosed under Vijender Jain whereas the appeal memo

it is mentioned as Vijender Kumar Jain. Since the PAN No. is same we are proceeding with the adjudication of the appeal as the same assessee.

3. At the time of hearing Ld. AR of the assessee submitted that the assessment order passed by the Assessing Officer is ex-parte and the assessee filed the appeal before NFAC raising several grounds and filed additional evidences in support of cash deposits made by the assessee in DCBL Bank. However, Ld.CIT rejected the additional evidences with observation that assessee was unwell during assessment proceedings. However, he could have taken help of the AR/CA to furnish details in response to various notices issued during assessment proceedings. He observed that in view of the above facts, in his considered view non-compliance to the notice issued u/s 143(2) and 142(1) of the Act cannot be attributed to ill health of the assessee. Therefore, he held that assessee is not covered under any clauses of rule 46A(1). Accordingly rejected the additional evidence submitted by the assessee by and in support of his views. Ld. AR prayed that this issue may be remitted back to AO to appreciate the facts on record.

4. On the other hand the Ld. DR relied on the orders of lower authority and submitted that the assessee has not utilized various opportunities given during assessment proceedings. He supported the findings of Learned CIT(A) for rejecting the additional evidence.

5. Considered the rival submission and material placed on record. We observed that due to ill health the assessee has not responded to any of the notices during assessment proceedings and issue under consideration is relating to cash deposits in his bank account and Ld. CIT(A) has rejected the additional evidence submitted before him with the observation that the assessee has not complied with the various notices issued by the Assessing Officer. In our considered view Ld. CIT(A) has co-terminus power to redo the assessment himself by accepting the additional evidences. Considering the additions made by the AO and for the sake of complete justice we are inclined to remit this issue back to the file of jurisdictional Assessing Officer to redo the assessment *de novo* after giving proper opportunity of being heard to the assessee. In the result appeal filed by the assessee is allowed for statical purpose.

***Order pronounced in the open court on 14<sup>th</sup> August, 2024.***

*sd/-*  
**(MADHUMITA ROY)**  
**JUDICIAL MEMBER**

*sd/-*  
**(S RIFAUUR RAHMAN)**  
**ACCOUNTANT MEMBER**

dp

Dated: 14<sup>th</sup> August, 2024

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi