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**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. S. RIFAUR RAHMAN ACCOUNTANT MEMBER
AND
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.1547/Del/2024
Assessment Year: 2017-18

Redefine Marcom Private Limited, 4 DDA, Commercial Complex, Plot No.22, Mor land, New Rajinder Nagar, New Delhi-110060 PAN No.AAECR3805M	Vs	ACIT Circle- 21 (1) New Delhi
(APPELLANT)		(RESPONDENT)

Appellants by	Sh. Vinay Chowla, Advocate
Respondent by	Ms. Shashi Kajle, Sr. DR

Date of hearing:	13/08/2024
Date of Pronouncement:	21/08/2024

ORDER

PER SUDHIR KUMAR, JM:

This appeal by the assessee is directed against the order of the Commissioner of Income Tax (Appeal)-21(1), Delhi [hereinafter referred to as "CIT(A)"], vide order dated 12.03.2024 pertaining to A.Y. 2017-18 and arises out of the order passed by the Assessing Officer dated 21.12.2019 under Section 143(3) of the Act, 1961 [hereinafter referred as 'the Act'].

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

1. *That the Learned CIT(A) NFAC, Delhi has erred in passing an ex-parte order and upholding the Asst. Order without going the merits of the additions.*

2. *That the CIT(A) and Assessing Officer has erred computing the Assessed Income of Rs.27790730/- under section 143(3) of IT Act as against the returned Income of Rs. 5687610/-. And making an addition of Rs:22103120/- which is being unexplained cash credits deposit in bank account under section 68 of the Income Tax Act, 1961.*

3. *That notice dated 05-03-2024 which was given as next date of hearing as 11-03-2024, on the said date of hearing the counsel was not well as a consequence ex-parte order was passed.*

4. *That non appearance on 11/03/2024 on account of ill health was unintentional and bonafide hence the impugned order may be set aside.*

5. *That no proper opportunity has been granted before finalizing the assessment to the appellant.*

6. *That the Authority below has erred computing the Assessed Income of Rs. 27790730/- under section 143(3)*

of IT Act which was duly rectified u/s 154 r.w.s.143(3) to Rs, 9814110/- and addition 41,26,500 has been add in place of Rs. 22103120/-(disallowed made vide order u/s 143(3) dated 21.12.2019) which are challenged in the present appeal on account of deposits made in bank accounts and added the same under section 68 of the 1. T. Act read with section 115BBE.

7. That the assessment made is highly arbitrary unjustified and is in disregard of evidence furnished to establish that the assessee company had incurred the expenditure shown in the Audited Profit & Loss account which is not only duly recorded in the books of account maintained by the Assessee Company in the regular course of its business activity, but also supported by proper bills and voucher.

8. That Authority below erred in taking a view that the appellant has not provided details such as Identity, creditworthiness and genuineness of the transaction in respect of cash deposit.

9. That the Authority below erred in making addition on account of cash deposits u/s 68 of the Act without giving proper opportunity to the Appellant to explain the facts of the case and also without appreciating that the Appellant has been regularly making cash withdrawals from the bank account and deposits only Rs. 41,26,500/- in the

bank account during the demonetization period and not Rs. 2,21,03120/- as alleged by the Assessing Officer and cannot be alleged to be undisclosed income only for the reason that during the particular period amounts deposited were excessive as compared to amounts deposited in other periods without correctly examining into the record/bank statements filed during assessment proceedings by the appellant and considering the circumstances under which cash was deposited in the bank account.

10. That the Authority below erred in applying provisions of Section 115BBE of the Act in the facts and circumstances of the case of Appellant and determining the tax- liability as per the aforesaid Section without appreciating that provisions of Section 68/69A were not applicable in the facts of the case and, therefore, provisions of Section 115BBE of the Act could not be invoked.

11. That the Authority below erred in making addition by referring to provisions of Section 68 of the Act without appreciating that provisions of above Section are not applicable in a case where the Appellant has deposited the cash in the bank account since provisions of above Section are applicable when an assessee is found to be owner of an asset during the course of search or survey and provisions cannot be invoked in a case where the

assessee has already declared the cash by way of depositing in the bank account and making necessary entries in the books of account regularly maintained by it.

12. That the Authority below erred in making the addition in respect of cash deposited in the bank account which was represented by cash balance in the hands of the Appellant as per the books of account duly filed during Assessment proceedings which shows Rs. 41,26,500/- only was deposited.

13. That the Authority below also erred in making the addition on account of cash deposits without giving proper opportunities in respect thereof to the Appellant.

14. That the appellant reserves his right to amend, alter, or raise any other additional grounds of appeal before or during the course of appellate proceedings.

3. The brief facts of the case are that the assessee is engaged in the business of event management services across India. During the course of providing services the company procures/ hires various goods like mike, stand speakers, hotels leaflets etc. The assessee itself had admitted that in their business they never received any payment in cash from any party, however return of income shows that they have deposited the cash during the demonetization period amounting to Rs.2,21,03120/-. A notice was issued u/s. 142(1) of the Act to

the assessee and was asked to file the detail of cash deposited in his bank accounts during demonetization period along with documentary evidence. But the AO did not satisfy with the reply of the assessee resulted which the AO made the addition of Rs 27790730/-u/s.68 of the Act. Aggrieved by the order passed by the AO, the assessee filed the appeal before CIT(A) who dismissed the appeal ex-parte against which this appeal has been filed by the assessee before us.

4. The Ld. Counsel for the assessee has filed an affidavit by stating that the notice of hearing of Ld CIT(A)/National Faceless Appeal Centre was received to the assessee on the e-filing portal and he has informed his advocate, Shri Vinay Chowla who was looking the matter before the Ld CIT(A). But the counsel could not attend the proceedings before the Ld.CIT(A) NFL on 11.03.202 because he was suffering from dizziness due to spondylosis and was advised rest. The Ld CIT(A) dismissed the appeal for non-prosecution and upheld the addition.

5. Per contra the Ld DR relied upon the orders of the lower authorities and requested for dismissal of the Appeal filed by the assessee.

6. We have heard both the parties and perused the relevant material available on record.

7. Perusal of the order of the Ld CIT(A) reveals that the appeal was decided by the Ld. CIT(A) ex-parte. We have given a thoughtful consideration to the orders of the authorities below. Therefore, we are of the considered view that if the assessee gets a proper opportunity to defend its case it will be in furtherance of principle of natural justice. Therefore, we restore the issue to the files of the Ld CIT(A). The Ld CIT(A) is directed to decide the appeal afresh after affording reasonable and adequate opportunity of being heard to the assessee. **Thus, the grounds of the assessee are allowed for statistical purpose.**

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 21.08.2024.

Sd/-

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

NEHA, Sr. PS

Date:- .08.2024

Copy forwarded to:

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

Sd/-

**(SUDHIR KUMAR)
JUDICIAL MEMBER**

ASSISTANT REGISTRAR
ITAT NEW DELHI