

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A': NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
AND
SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.821/DEL/2024
(Assessment Year: 2017-18)**

**ITA No.892/DEL/2024
(Assessment Year: 2017-18)**

A.N. Frozen Foods (P) Ltd.,
C/o CA Vaibhav Goel,
75, Navyug Market, 1st Floor,
Ghaziabad – 201 002 (Uttar Pradesh).

vs.

ITO, Ward 1 (1),
Delhi.

**(PAN : AADCA5298G)
(APPELLANT)**

(RESPONDENT)

ASSESSEE BY : Shri Vaibhav Goel, Advocate
REVENUE BY : Shri Kanv Bali, Sr. DR

Date of Hearing : 31.07.2024
Date of Order : 23.08.2024

ORDER

PER S.RIFAUR RAHMAN,AM:

The assessee has filed appeals against the order of the Learned Commissioner of Income Tax (Appeals), Delhi [“Ld. CIT(A)”, for short]/National Faceless Appeal Centre (NFAC) dated 22.12.2023 for the Assessment Year 2017-18.

2. On verification of the record, it is found that assessee has filed two appeals against the impugned order of ld. CIT (A) dated 22.12.2023. In this regard, ld. counsel for the assessee submitted that the appeal being ITA

No.821/Del/2024 was filed online and ITA No.892/Del/2024 was filed manually inadvertently. Therefore, he requested that the appeal being ITA No.892/Del/2024 may be allowed to withdraw and in this regard, a request letter dated 31.07.2024 was filed. In this view of the matter, the appeal being ITA No.892/Del/2024 is dismissed as withdrawn.

3. With regard to ITA No.821/Del/2024, at the time of hearing, ld. AR for the assessee brought to our notice that the ld. CIT (A) decided the issue against the assessee by observing that assessee has not pursued the appeal despite being granted several opportunities and the details are given in the first appellate order by relying on several decisions and dismissed the appeals in limine. He submitted that ld. CIT (A) has not decided the issue on merit and prayed that this issue may be remitted back to the ld. CIT(A) with the prayer to give an opportunity of being heard to the assessee. He submitted that there are reasons for assessee for not appearing before the first appellate authority.

3. On the other hand, ld. DR for the Revenue objected to the submissions of the ld. counsel for the assessee and submitted that assessee has not utilised several opportunities granted by ld. CIT (A).

4. Considered the rival submissions and material placed on record. We observe that the addition under section 69 of the Income-tax Act, 1961 (for short "the Act") was sustained by the ld. CIT (A) and considering the addition sustained by the ld. CIT (A), in our considered view, assessee should be given one more opportunity of being heard on merit. Therefore, we direct ld. CIT (A) to give an opportunity of being heard to the assessee and decide the issue on merit as per law. We also direct assessee to

make proper submissions and appear before the Id.CIT (A) on the date of hearing and cooperate with the tax authorities. Accordingly, the appeal filed by the assessee is allowed for statistical purposes.

5. In the result, ITA No.821/Del/2024 is allowed for statistical purposes and ITA No.892/Del/2024 is dismissed as withdrawn.

Order pronounced in the open court on this 23rd day of August, 2024.

**Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER**

**sd/-
(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Dated: 23.08.2024
TS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI