

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : G : NEW DELHI

BEFORE SHRI S. RIFAUH RAHMAN, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.843/Del/2024
Assessment Year: 2012-13

Sachin Tyagi,
206-207, Ansal Satyam,
RDC, Rajnagar,
Ghaziabad,
Uttar Pradesh – 201 002.

Vs Income Tax Officer,
Ward -2(2)(4),
Ghaziabad.

PAN: AFRPT7606R

(Appellant)

(Respondent)

Assessee by	: Shri Govind Aggarwal, CA
Revenue by	: Shri Anuj Garg, Sr. DR
Date of Hearing	: 02.07.2024
Date of Pronouncement	: 27.08.2024

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the Assessee against the order dated 07.02.2024 of the Commissioner of Income Tax (Appeals), NFAC, Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') in Appeal No. CIT(A), Ghaziabad/11897/2019-20 arising out of the appeal before it against the order dated 27.12.2019 passed u/s 147/144 of the Income Tax Act,

1961 (hereinafter referred as 'the Act'), ITO, Ward 2(2)(4), Ghaziabad (hereinafter referred to as the Ld. AO).

2. On hearing both the sides, it comes up that the assessee has raised grounds No.2 and 3 that without adequate opportunity and declining adjournment request, the NFAC, has passed the impugned order. The ld. DR has defended the order of the NFAC, submitting that the assessee was duly informed by e-mail of the date of hearing.

3. On going through the impugned order of the NFAC, it transpires that in the order, the date of issuance of notice is mentioned and with regard to the notice dated 15.12.2023, it is recorded that the assessee was given final opportunity, but, the assessee has failed to respond. In para 4.3, the NFAC, mentions that there was no response whatsoever, not even with the purpose of seeking an adjournment.

4. However, in the paper book filed before us, the ld. AR has drawn our attention to a submission dated 8th January, 2024 by which it was informed through the online portal that the assessee cannot submit a reply as counsel Mr. Akhilesh Kumar was busy in looking after of his daughter who has been operated. He has also drawn our attention to an adjournment application for an earlier date of 25.11.2023 on the basis that compilation of the document is pending.

5. In the light of the aforesaid, we are of the considered view that the NFAC, has not been fair to decide the appeal *ex parte*. At the same time, it is pertinent to observe that the assessee had failed to appear before the AO also and the issues involved are complicated questions of facts and law. Accordingly, the grounds no. 2 and 3 as raised are sustained. Setting aside the assessment, the issues on merits as well as law, if any, are restored to the files of the Assessing Officer for afresh assessment.

6. In the result, the appeal is allowed for statistical purposes only.

Order pronounced in the open court on 27.08.2024.

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 27th August, 2024.

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Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi