

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

BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITAs No.1473 to 1476/Del/2024
Assessment Years: 2012-13 to 2014-15 & 2016-17

Deepak Budhiraja,
C/o Vinod Kumar Bindal & Co.,
D-219, Shiv Sushil Bhawan,
Vivek Vihar Phase-I,
Delhi – 110 095.

Vs ITO,
Ward-48(4),
New Delhi.

PAN: ACGPB6459C

(Appellant)

(Respondent)

Assessee by : Shri V.K. Bindal, CA &
Ms Rinky Sharma, ITP
Revenue by : Shri Shyam Manohar Singh, Sr.DR
Date of Hearing : 14.08.2024
Date of Pronouncement : 27.08.2024

ORDER

PER ANUBHAV SHARMA, JM:

These are appeals preferred by the assessee against the orders dated 07.02.2024 of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') arising out of the appeal before it against the orders passed u/s

147/144 of the Income Tax Act, 1961 (hereinafter referred as 'the Act'), by the ITO, Ward48(4), New Delhi ('the ld. AO' for short).

2. Heard and perused the record.

3. At the time of hearing, the ld. counsel for the assessee had raised a legal argument that the assessment in the case of the assessee should have been completed by taking recourse to section 153C of the Act and the impugned notice u/s 148 and the assessment thereupon u/s 147 of the Act is not in accordance with law. He has argued that the incriminating material/entries were allegedly found during the search in the premises of Mastana Group on 17.01.2017 and the same has been relied for completing assessment in the hands of the assessee without taking recourse to section 153C of the Act. He had relied the decision of this bench itself in the case of Anoop Kumar Gupta Versus ACIT ITA No. 454/Del/2020 order dated 5/10/2023 and in MAH Impex (P) Ltd Versus ITO in ITA No. 279/Del/2019 order dated 31/10/2023.

4. The proposition as raised in no more *res integra*, however, what transpires from the impugned order is that before the CIT(A), the assessee had failed to appear and make any submissions on facts or law and proceeding the assessee *ex parte*, the CIT(A) had dismissed the appeal of the assessee. Though the appeal was dismissed in default, but, CIT(A) had made some observations on the merits of the addition also. But, the same was without examination of the legal issue as raised before us and not having an opportunity to consider the

substantial facts and the legal aspects on submissions of assessee. The ld. counsel had pointed out that notices were not actually served upon the assessee.

5. We are of the considered view that as there is no factual appreciation and conclusive findings of the CIT(A) on questions of facts and law thus the ends of justice require restoring the issues on merits and point of law to CIT(A) for passing an order afresh.

6. Consequently, **the appeals are allowed for statistical purposes** and the issues on merits and question of law are restored to the files of the CIT(A) to pass an order afresh after giving a reasonable and effective opportunity of hearing to the assessee.

Order pronounced in the open court on 27.08.2024.

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 27th August, 2024.

dk

Copy forwarded to:

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

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Asstt. Registrar, ITAT, New Delhi