

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

**BEFORE SH. PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**I.T.A. No. 3276/DEL/2023 (A.Y 2018-19)**

MSG All Trading International Private Limited Office No. 2, 3 <sup>rd</sup> floor, 80, Eat Azad Nagar, Raghupur, Shahdra, Delhi  <b>PAN No. AAJCM6792K</b>  <b>(APPELLANT)</b>	Vs.	DCIT, Circle-10(1) Delhi  <b>(RESPONDENT)</b>
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<b>Assessee by :</b>	<b>Sh. Ved jain, Adv &amp; sh. Aman Garg, CA</b>
<b>Department by:</b>	<b>Sh. Rajesh Tiwari, SR. DR</b>

<b>Date of Hearing</b>	<b>03.09.2024</b>
<b>Date of Pronouncement</b>	<b>05.09.2024</b>

**ORDER**

**PER YOGESH KUMAR U.S., JM**

This appeal is filed by the assessee for Assessment Year 2018-19 against the order of the Ld. CIT(A)/National Faceless Appeal Centre ('NFAC' for short), Delhi dated 19/09/2023.

2. The grounds of Appeal are as under:-

*“1. On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax Appeals), Income Tax Department (ITD) National Faceless Appeal Centre (NFAC) is bad both in the eye of law and on facts.*

*2. On the facts and circumstances of the case, the learned CIT(A), ITD has erred, both on facts and in law, in passing the order without giving the assessee an appropriate and adequate opportunity of being heard in clear violation of principles of natural justice.*

*3 (i) On the facts and circumstances of the case the learned CIT(A), ITD has erred both on facts and - aw in sustaining the addition of Rs. 1,47,50,041/- estimated by the AO by applying the gross profit ratio at the rate of 15.69% as against the rate of 13.63% declared by the assessee.*

*(ii) That the addition has been confirmed despite the fact that the estimation made by the AO is too arbitrary without there being any basis of the same.*

*4 (i) On the facts and circumstances of the case learned CIT(A) has erred both on facts and in law confirming the action of the AO in rejecting the books of accounts without pointing out any specific defect as contemplated u/s 145(3) of the Act.*

*(ii) That the books of accounts have been rejected despite the fact that the assessee has been maintaining regular books of accounts and financial statement are audited as per law and nothing adverse has been pointed out by the AO.*

*5. On the facts and circumstances of the case the learned CIT(A), ITD has erred both on facts and in law, in passing the order without adjudicating the ground raised by the assessee relating to the*

*addition of Rs. 1,52,00,000/- made by the assessing officer treating the unsecured loan raised during the year as unexplained cash credit invoking the provisions of section 68 read with section 115BBE of the Act.*

6. *On the facts and circumstances of the case, the learned CIT(A), ITD has erred both on facts and in law in confirming the above additions despite the fact that the same have been made by the AO by indulging in surmises without bringing on any direct evidence against the assessee, only on the basis of presumption and assumption.*
  7. *On the facts and circumstances of the case, the learned CIT(A), ITD has erred both on facts and in law in confirming the addition despite the fact that the same has been made by the AO without concluding the independent enquiry conducted during the course of assessment proceedings to the logical end.*
  8. *On the facts and circumstances of the case, the learned CIT(A), ITD has erred both on facts and in law in confirming action of the AO despite that assessment order having been framed on the basis of material collected at the back of the assessee, without providing adequate opportunity to the assessee to rebut the same in violation of statutory provision of Section 142(3) of the Act.”*
3. Brief facts of the case are that, the assessee filed return of income declaring total income of Rs. 33,06,510/- and the same was selected for scrutiny under compulsory criteria mainly to verify the issue ‘specific information pointing tax evasion has been received from other agency’. An Assessment Order u/s 144 read

with Section 144B of the Income Tax Act came to be passed by placing the assessee ex-parte on 23/09/2021 wherein the Ld. A.O. computed the income of the assessee at Rs. 3,32,56,551/- as against the returned income of Rs. 33,06,510/-. Aggrieved by the order of the A.O., the assessee preferred an Appeal before the CIT(A), and the Ld. CIT(A) vide order 09/09/2023, dismissed the appeal filed by the assessee by confirming the addition made by the A.O. As against the order of the CIT(A), the assessee preferred the present Appeal on the Grounds mentioned above.

4. The Ld. Counsel for the assessee submitted that in both the Assessment order as well as the impugned order of the CIT(A), the assessee has been palced ex-parte. Further submitted that the addition has been made on account of enhancement of gross profit rate on the reasoning that the assessee could not submit bills/vouchers of sale purchase as the same were sealed in compliance to the order of Hon'ble Punjab and Haryana High Court. As of now, as the assessee is in the possession of those bills and vouchers, the assessee will be able to produce the same before

the A.O. if the matter is remanded to the file of the A.O. The Ld. Counsel has also pointed out on the order of the CIT(A) which is nothing but cryptic and repeated copying and pasting the similar contents in its 13 pages orders and the order impugned passed by the CIT(A) without providing proper opportunity being heard to the assessee.

5. Per contra, the Ld. Departmental Representative relying on the orders of the Lower Authorities, sought for dismissal of the Appeal.

6. We have heard both the parties and perused the material available on record. It is evident from the order of the CIT(A) that the order impugned of the CIT(A) is not only cryptic but also no proper opportunity has been given to the assessee to put forth his case. Considering the fact that during the assessment proceedings the bills and vouchers of the assessee were seized by the Hon'ble Punjab and Haryana High Court, as the assessment order as well as the order of the CIT(A) being ex-parte, we deem it fit to remand the matter to the file of the A.O. with a liberty to the assessee to produce all the documents which are presently in its possession

and the A.O. is also directed to consider the same and pass de-novo assessment order in accordance with law.

7. In the result, the Appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the open court on 05<sup>th</sup> September, 2024.

**Sd/-**

**( PRADIP KUMAR KEDIA )  
ACCOUNTANT MEMBER**

Dated : 05/09/2024

*R.N, Sr. PS\**

**Sd/-**

**(YOGESH KUMAR U.S.)  
JUDICIAL MEMBER**

Copy forwarded to :

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

