

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

**Before Sh. Pradip Kumar Kedia, Accountant Member
&
Sh. Yogesh Kumar US, Judicial Member**

ITA No. 2196/Del/2024 : Asstt. Year : 2018-19

Manmohan Krishan Dang, H. No. K-137-138, South City-1, Gurgaon, Haryana-122001	Vs.	DCIT, Circle-1(1), Gurgaon, Haryana-122001
(APPELLANT)		(RESPONDENT)
PAN No. AAWPD8416B		

**Assessee by : Ms. Kavita Gupta, CA &
Sh. Ankit Kansal, CA
Revenue by : Ms. Smita Singh, Sr. DR**

Date of Hearing: 10.09.2024

Date of Pronouncement: 12.09.2024

ORDER

Per Pradip Kumar Kedia, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT(A), Delhi-42 dated 13.12.2019.

2. The captioned appeal arises from the First Appellate order passed u/s 250 dated 01.04.2024 in the Assessment Order passed u/s 143(3) of the Income Tax Act, 1961 by NeAC Delhi dated 08.07.2020.

3. Briefly stated the assessee filed return of income for the Assessment Year 2018-19 at Rs.2,34,68,050/-. The return was processed u/s 143(1) of the Act wherein certain inconsistency in the total amount of disallowance were detected. The adjustment of Rs.3,84,343/- to total income was eventually made while framing intimation u/s 143(1) of the Act. Thereafter, regular

assessment u/s 143(3) of the Act was also made vide order dated 08.07.2020. The Assessing Officer adopted the returned income of Rs.2,34,68,050/- as the assessed income.

4. The assessee preferred appeal against the Assessment Order passed u/s 143(3) of the Act, the Id. CIT(A) vide order dated 01.04.2024 endorsed the action of the AO *ex-parte*.

5. Further, aggrieved, the assessee preferred appeal before the Tribunal. When the matter was called for hearing, the Id. Counsel submitted that inconsistency pointed out in Section 143(1)(a) of the Act proceedings is on account of depreciation amount on account of personal use of assets.

6. While framing the regular assessment u/s 143(3) of the Act, the AO has accepted the income as per ROI and therefore, the relief on account of this inconsistency found u/s 143(1) of the Act proceedings requires to be provided to the assessee and the additions/disallowances requires to be reversed.

7. On further deliberations, it was pointed out to the Id. Counsel of the assessee that the grievance of the assessee towards additions of Rs.3,84,340/- is *qua* the intimation u/s 143(1) of the Act and not in relation to the Assessment order passed u/s 143(3) of the Act. The proceedings u/s 143(1) of the Act being independent of the regular assessment proceedings u/s 143(3) of the Act, a separate appeal remedy is available to the assessee against the adjustments made in Section 143(1) of the Act. The appeal remedy would lie against intimation u/s 143(1) of the Act rather than the present proceedings arising

from regular Assessment Order u/s 143(3) of the Act where no adjustment of such amount has been carried out by the AO.

8. The Id. Counsel in such a situation prayed for liberty to file a fresh appeal against intimation u/s 143(1) of the Act or against rectification order u/s 154 of the Act against such intimation, if so, advised.

9. In view of the facts narrated above, there being no grievance arising to the assessee against impugned regular Assessment Order, the present appeal is dismissed as infructuous in *limine*.

10. However, on conspectus of all the facts and circumstances and having regard to the fact that the plea of the assessee has not been addressed on merits, we consider it expedient to grant liberty to the assessee to pursue an appropriate appellate remedy in accordance with the law, if so, legally advised. For such purpose, the limitation of 30 days to prefer fresh appeal before the Id. CIT(A) shall be counted from the date of service of this order upon the assessee. The intervening delay in filing the proposed appeal against Section 143(1) or Section 154 order shall condoned by the Id. CIT(A).

11. In the result, the appeal of the assessee is dismissed.
Order Pronounced in the Open Court on 12/09/2024.

Sd/-

(Yogesh Kumar US)
Judicial Member

Dated: 12/09/2024

Subodh Kumar, Sr. PS

Sd/-

(Pradip Kumar Kedia)
Accountant Member