

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

**Before Dr. B. R. R. Kumar, Accountant Member
Sh. Anubhav Sharma, Judicial Member**

ITA No. 2914/Del/2023 : Asstt. Year: 2017-18

Asha Dhingra Legal Representative of Late Sh. Subhash Chand Dhingra, 65/24, New Rohtak Road, Karol Bagh, New Delhi 110011	Vs	Assessing Officer (Appeals), National Faceless Appeal Centre (NFAC), Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AIWPD0821C		

**Assessee by : Ms. Kavita, CA
Revenue by : Sh. Shyam Singh, Sr. DR**

Date of Hearing: 08.02.2024	Date of Pronouncement: 19.04.2024
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the orders of Id. NFAC/CIT(A), New Delhi dated 16.08.2023.

2. Following grounds have been raised by the assessee:

"1. That the Assessment order dated 09/12/2019 passed u/s 148 of the Income Tax Act, 1961 by Ld. AO is against the law and facts on the file in as much as he has gravely erred in computing total income at Rs. 59,87,640/-.

2. That the Assessment order dated 09/12/2019 passed u/s 144 is against the law and facts on the file in as much as he was not justified to add back entire amount credited in the bank accounts of the assessee aggregating Rs.59,87,640/- which includes Business receipts, Interest on Fixed Deposits & SB Account, proceeds from LIC, rentals from House Property, etc. without giving a proper opportunity of being heard.

3. That the Ld. AO grossly erred on the facts as well as in law by adding all the credit summations other than cash in the Bank Accounts of the assessee considering unexplained credits merely on the grounds of no response inspite of the fact that the entries in Bank Statements are self-explanatory in nature which is not justified and against the principles of natural justice.

4. That the Ld. AO grossly erred on the facts that the amount credited in the Bank Account of the Assessee cannot be considered as UNEXPLAINED MONEY u/s 69A of the Income Tax Act, 1961 as the said amount is duly accounted for appearing in Bank Statements of the Assessee and cannot be considered as unaccounted. In the present case, the Assessee could not offer the explanation due critical illness and thereafter his death."

3. From the record, we find that the order of the Assessing Officer as well as the order of the Id. CIT(A) are *ex-parte*. The Id. CIT(A) referred to the maxim "*vigilantibus non-dormientibus jura subveniunt*" i.e. "*the law assist those who are vigilant and not those who sleep over their rights*" is applicable in this case and relied on the judgment of Hon'ble Supreme Court in the case of CIT Vs. B. N. Bhattacharya & Another (118 ITR 461) wherein their lordships held that "*The appeal does not mean merely filing of the appeal but effectively pursuing it*" and dismissed the appeal of the assessee.

4. Both the parties fairly submitted that owing to non-examination of the issues, the matter may be set aside to the file of the Assessing Officer to examine the issue afresh. Hence, in the interest of justice, we remand the matter to the file of the Assessing Officer to complete the assessment proceedings *de novo* after affording an opportunity of being heard to the assessee. The assessee shall comply to the notices issued by the department from time to time.

*ITA No. 2914/Del/2023
Asha Dhingra
Legal Representative of
Late Sh. Subhash Chand Dhingra*

5. In the result, the appeal of the assessee is allowed for statistical purpose.

Order Pronounced in the Open Court on 19/04/2024.

Sd/-
(Anubhav Sharma)
Judicial Member

Sd/-
(Dr. B. R. R. Kumar)
Accountant Member

Dated: 19/04/2024

Subodh Kumar, Sr. PS
Copy forwarded to:

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

ASSISTANT REGISTRAR