

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "E", NEW DELHI
BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER

	ITA NO. 1185/Del/2023	
	A.YR. : 2014-15	
Karamyogi Homes Pvt. Ltd., C/o Plot No. 2A, First Floor, KH No. 294, Kehar Singh State, Saidulajab Village, Lane No. 2, New Delhi – 110 030 (PAN: AACCK6718N)	VS.	ITO, Ward 14(2), New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by : Shri Somil Agarwal, Adv.
Respondent by : Shri Dheeraj Kumar Jain, Sr. DR.
Date of hearing : 19.09.2024
Date of pronouncement : 23.09.2024

ORDER

PER SHAMIM YAHYA, AM :

The Assessee has filed the instant Appeal against the Order of the Ld. CIT(Appeal)/NFAC, Delhi dated 23.03.2023, relating to assessment year 2014-15 on the following grounds:-

- 1. That having regard to the facts and circumstances of the case, Ld. CIT (A) has erred in law and on facts in confirming the action of Ld. A.O. in assuming jurisdiction and framing the impugned assessment order u/s 143(3) is bad in law and against the facts and circumstances of the case and is not sustainable on various legal and factual grounds.*
- 2. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of the Ld. A.O. in making addition of Rs. 2,72,68,400/- and that too without proper appreciation of facts on record and by*

recording incorrect facts and findings, and making allegations without any basis, material and merely on the basis of surmises and conjectures and without observing the principal of natural justice.

3. *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the addition of Rs.2,72,68,400/- is bad in law and against the facts and circumstances of the case.*
4. *That having regard to the facts and circumstances of the case, Ld. CiT(A) has erred in law and on facts in passing the impugned ex-parte order and that too without any basis, material or evidence and without appreciating / considering the facts and circumstances of the case.*
5. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in confirming the action of Ld. A.O. in charging interest, more so when such interest could not be levied under the law.*
6. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in passing the impugned order without giving adequate opportunity of being heard and in gross violation of principles of natural justice.*

2. Brief facts of the case are that Assessee filed its return of income for AY 2014-15 declaring total income at Rs. 18,38,480/-. The assessee company is engaged in the business of colonizing and trading in real estate. The case of the assessee was selected through CASS and thereafter the notice u/s. 143(2) of the Act was issued. The assessee was asked to justify for undervalued purchase of the land but no clear explanation was received from the Assessee's end and hence, the additions were added to the taxable income of the assessee by assessing the total income at Rs. 2,91,06,880/-. Against the AO's order, assessee appealed before the Ld. CIT(A), who vide his impugned order 23.3.2023 has sustained the additions made by the AO and dismissed the appeal of the assessee, because the assessee has not filed any written submission/ document with respect to ground raised in Form 35. Aggrieved with the aforesaid action of the Ld. CIT(A), assessee is in appeal before us.

3. We have heard both the parties and perused the records. At the outset, it is noted that in this case Ld. CIT(A) has not decided the merits of the case, but it has applied the Multiplan case and dismissed the appeal for non-prosecution.

In our considered opinion, the Ld. CIT(A) should have passed the order on merits of the case, which he has not done. Accordingly, in the interest of justice, we remit back the issues in dispute to the file of the Ld. CIT(A) to decide the same afresh, after giving adequate opportunity of being heard to the assessee.

4. In the result, the Assessee's appeal is allowed for statistical purposes.

Order pronounced on 23/09/2024.

SD/-
(VIMAL KUMAR)
JUDICIAL MEMBER

SD/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

SRB

Copy forwarded to:-

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

Assistant Registrar