

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. 2771/Del/2024	
	A.YR. : 2017-18	
Madhu C/o SBG & Co., CA 9, Atta-ur-rehman Lane, Civil Lines, Delhi – 110 054 (PAN: BIWPM2823A)	VS.	ITO, Ward 2(4), Gurgaon
(APPELLANT)		(RESPONDENT)

Appellant by : None
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 15.09.2023, relating to assessment year 2017-18 on the following grounds:-

- “1. That the assessment order passed u/s. 144 of the Income Tax Act, 1961 is illegal and unjustified and, therefore, ought to be quashed.
2. That the addition of Rs. 13,14,000/- made in the assessment order passed under section 144 of the Income Tax Act, 1961 is illegal and unjustified and, therefore, ought to be deleted.

3. *That on the facts and circumstances of the case and in law, the addition of Rs. 13,14,000/- u/s. 69A of the Income Tax Act, 1961 as unexplained money on account of cash deposit in bank is illegal and unjustified and, therefore, ought to be deleted.*
4. *That on the facts and circumstances of the case and in law, the addition of Rs. 13,14,000/- u/s. 69A of the Income Tax Act, 1961 as unexplained money on account of cash deposit in bank is illegal and unjustified because the cash was deposited in bank is out of prior cash withdrawal from bank during the same year and had to be deposited due to demonetization of currency made by Government, therefore, the addition ought to be deleted.*
5. *That the penalty proceedings initiated u/s. 271AAC(1) of the Income Tax Act, 1961 is illegal and unjustified and, therefore, ought to be quashed.”*

2. Brief facts of the case are that Assessee filed e-return of income on 1.11.2017 for the AY 2017-18 declaring total income of Rs. 3,15,480/- after claiming deduction under Chapter VI-A of Rs. 10,000/-. The case of the assessee was selected for scrutiny under CASS and thereafter statutory notices were issued, which remain uncomplied. Accordingly, the AO passed the exparte order u/s. 144 of the Act and made the additions in dispute by assessing the income at Rs. 84,15,750/-. Against the AO's order, assessee appealed before the Ld. CIT(A), who vide his impugned order 15.9.2023 has partly allowed the appeal for statistical purposes. Aggrieved with the aforesaid action of the Ld. CIT(A), assessee is in appeal before us.

3. None appeared on behalf of the assessee, despite the issue of notice for hearing. Hence, we are proceeding exparte qua the assessee.

4. At the outset, we note that AO has passed the ex parte order u/s. 144 of the Act and Ld. CIT(A) has partly allowed the appeal for statistical purposes. Considering the grounds raised by the Assessee, we are of the considered opinion that interest of justice will be served, if the issues in dispute are remitted back to the file of the AO with the directions to consider the same afresh, after giving adequate opportunity of being heard to the assessee. The AO shall also bear in mind the Ld. CIT(A)'s directions to verify the return of income as the share of profit from a firm is exempt in the hands of the partner of the firm. We hold and direct accordingly.

5. 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