

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

**BEFORE SH. S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.2086/Del/2024  
Assessment Year: 2017-18

<b>Raj Builders Private Limited 27, Community Centre, Basant Lok Vasant Vihar, New Delhi</b>	<b>Vs</b>	<b>DCIT Circle – 19(1) Delhi</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellants by	<b>Sh. N.K. Bansal, CA</b>
Respondent by	<b>Ms. Shashi Kajle, Sr. DR</b>

Date of hearing:	14/08/2024
Date of Pronouncement:	09/10/2024

**ORDER**

**PER SUDHIR KUMAR, JM:**

The above captioned appeal by the assessee is directed against the order of the NFAC/Commissioner of Income Tax (Appeals), Delhi [hereinafter referred to as "CIT(A)"], vide order dated 27.03.2024 pertaining to A.Y.2017-18 arises out of the order passed by the Assessing Officer dated 15.03.2019 u/s 143(3) of the Income Tax Act,1961[hereinafter referred as 'the Act']

2. The assessee has raised the following grounds of appeal :-

1. *The order passed by the Ld. CIT (A) is ex-facie arbitrary, erroneous and bad in law.*

2. *The Ld. CIT (A) has erred in law and on the facts and circumstances of the case in dismissing the appeal and denying the condonation, not considering that intimation u/s 143(1) dated 15-03-2019, was neither received by the appellant nor any information/ intimation of the same was sent by email, message, or WhatsApp and was also not even showing on the Income Tax Portal. The aggrieved appellant then filed a grievance vide acknowledgement no. 15439061 dated 30-11-2023 and also contacted the jurisdictional assessing officer circle 21(2) Delhi on 15-12-2023, 20-12-2023, 22-12-2023, 29-12-2023, and 31-01-2024, and after great persuasion, the Ld. Jurisdictional AO communicated with CPC Bangalore and made available the intimation on the portal on 05-02-2024. The appellant then filed an appeal before Ld. CIT(A) on 04-03-2024 and this might not be considered as a delay in filing the appeal and therefore the same should have been admitted.*

3. *The Ld. AO(CPC) has erred in law and on the facts and in the circumstances of the case in making the additions on account of income on tax-free bonds under the head*

*income from business & profession as the same is exempt from tax and whereas no additions were to be made. The same has also been clearly shown in the income tax return under the schedule EI and has also been excluded from 'Profit before tax as per profit and loss account (items 45 and 53 of Part A-P&L)' in part A of Schedule BP by showing it as "Income/receipts credited to profit and loss account considered under other heads of income chargeable u/s 115BBF" point e of other sources.*

*erred in law and on the facts and in the circumstances of the case in making the additions as no addition can be made in the intimation u/s 143(1) except as provided in clause (a)(i) to (vi) of subtraction (1) of section 143 of the Income Tax and therefore the addition made by L.d. CPC in intimation passed u/s 143(1) is ultra vires the provision of the Income Tax Act and illegal, erroneous and untenable.*

*5. The Ld. AO has erred in law and on the facts and in the circumstances of the case in levying a surcharge @7% in row S. NO. 27(iii) of the said intimation amounting to Rs. 2,43,993/-, on the tax including the tax on additional income amounting to Rs. 3485613/-*

*6. The Lal. AO has erred in law and on the facts and in the circumstances of the case in levying education cess,*

*interest u/s 234B and 234C of the Income Tax Act, 1961. The interest u/s 234C is payable on the returned income and it has nothing to do with the assessed income.*

*7. Each ground of appeal is independent of the other ground of appeal.*

*8. The above grounds are without prejudice to each other.*

*9. The applicant craves leave to add, alter, modify and withdraw any grounds of appeal before or during the appellate proceedings.*

3. The Ld. AR has submitted that the appeal of the assessee was filed within the time limit after the service of the order of the AO but the Ld. CIT(A) dismiss the appeal as time barred. The Ld. AR also submitted that assessee has never received an information / intimation u/s. 143 (1) of the Act. The assessee has raised his grievance and contact to jurisdictional AO, Circle -21(2) and after great persuasion, the AO communicated with CPC, Bangalor and made available intimation on the portal on 05.02.2024 and to its great surprises, there was an arbitrary addition of Rs.20,01,734/- under the head "Income from business or Profession". The Ld. AR has also submitted that the appeal is within the time period but the CIT(A) has dismissed the appeal without going into the merits of the case.

4. The Ld. DR has submitted that the appeal has filed after four years. No sufficient cause has been shown of delay in filing of the appeal. The Ld. DR has relied upon the orders of the authorities below.

5. We have heard the rival arguments and perused the material available on record. We are, seized many cases where assessee mistakenly did not receive the orders sent through email as many of these orders are going to spam folders. This being so considering the explanation given by the assessee, we are of the view that the explanation is a plausible explanation consequently, we condone the delay in filing the appeal before the Ld. CIT(A). We are not going into the merits of the case. In the interest of justice and fair play we restore the issue to the file of the CIT(A) for adjudication on merits after granting the assessee adequate opportunity of being heard.

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

Order pronounced in the open court on 09.10.2024.

**Sd/-**

**(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

\*NEHA, Sr. PS\*

Date:-09.10.2024

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT

**Sd/-**

**(SUDHIR KUMAR)  
JUDICIAL MEMBER**

4.CIT(Appeals)  
5.DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI