



3. The grievances of the assessee read as under:

*1. That, the NFAC has erred in dismissing the appeal of assessee, in ex-parte manner, in for non-prosecution without appreciating the material available on record.*

*2. That, the NFAC has erred in making the observation, that. multiple opportunity was given to the assessee and the same has not been responded by the assessee, which is highly arbitrary and incorrect.*

*3. That, the total income of the Appellant has been wrongly and illegally computed by the NFAC, Delhi at Rs. 16,65,260.00 as against income declared at Rs.23,970.00.*

*4. The assessing officer has erred in rejecting the books of account U/s 145(3) of the Income Tax Act, 1961 without pointing the defects, in the books maintained by the assessee Individual, therefore, the rejection of books U/s 145(3) of the Act is highly presumptive, arbitrary and unjust. The NFAC has confirming the same.*

*5. That, the assessing officer has erred in making the estimation of adhoc Gross Profit @3% as against declared Gross Profit @1.89% and made the addition of Rs.6,50,951.00 of the total turnover of Rs.6.04,65.031.00, which is highly unjust, excessive and arbitrary. The NFAC has confirming the same.*

*6. The Assessing Officer has erred in making the addition of Rs.9,90,335.00 to the income of the assessee on account of Unexplained Cash Credit applying provision of section U/s 68 of the ACT treating the sales as bogus, which is illegal, arbitrary and against the facts and circumstances of the case, the NFAC has erred in confirming the same.*

*7. That, the AO and NFAC has erred in disallowing the sales without pointing out any defects, in the books of accounts 7) maintained by the assessee, therefore, the disallowance made and confirmed by NFAC is highly arbitrary, unjustified and purely based on surmises and conjectures.*

***8. That the impugned Assessment Order passed by the Assessing Officer are against the principles of natural justice and the same has been passed without affording reasonable and adequate opportunity of being heard.***

***9. The additions made and the observations made are unjust, unlawful and based on mere surmises and conjunctures. The additions made cannot be justified by any material on record and also excessive.***

***10. The explanation given in the evidence produced, material placed that has been made available on record has not been properly considered and judicially interpreted and the same do not justify the additions/ allowances made.***

***11. The Appellant craves leave to add, amend, alter and or modify the grounds of appeal of the said appeal.***

***All of the above grounds of appeal are without prejudice and are mutually exclusive to each other.***

4. Briefly stated, the facts of the case are that the assessee is a partnership firm engaged in the trading of bidis. Return of income was e-filed on 16.11.2017 at a total income of Rs. 23,970/-. The case was selected for complete scrutiny under CASS for cash deposit during demonetization and accordingly, statutory notices along with questionnaire were issued and served upon the assessee.

5. In response, the assessee filed reply. However, the Assessing Officer observed that in the absence of documentary evidence, the reply of the assessee got no force. The AO held that the assessee has failed to prove the genuineness of the sale and that the assessee has introduced unaccounted cash credit by showing bogus sale entry in the

books of account and manipulated the sale ledger and other books of account to justify his claim. Accordingly, the Assessing Officer made addition of Rs. 9,90,335/-. The AO also added an amount of Rs 6,50,951/- on account of gross profit. Penalty proceedings were separately initiated u/s 271AAC of the Act on account of addition u/s 68 of the Act.

6. Aggrieved, the assessee went in appeal before the Id. CIT(A) who also dismissed the appeal exparte.

7. Now the further aggrieved assessee is in appeal before us.

8. Before us, the Id. counsel for the assessee stated that the assessee could not participate in the appeal proceedings on account of the mishap that befell on the partners of the firm. The daughter/sister of the partners was murdered by her husband on 19.02.2024 under domestic violence and dowry. The partners were under mental pressure and disturbed and hence could not attend proceedings before the CIT(A). The AR of the assessee prayed for another opportunity to explain its position before the Id CIT(A).

9. Per contra, the Id. DR did not raise any serious objection and relied upon the orders of the authorities below.

10. We have heard the rival submissions and have perused the relevant material on record. Having considered the rival submissions,

we are of the considered opinion that the reasons for non-appearance before the CIT(A) has substantial weight and that in the interest of justice and fair play, the issue should be restored to the file of the CIT(A). The assessee is directed to furnish the original documents as well as material evidence for verification and the CIT(A) is directed to examine the same and decide the issue as per the provisions of law after affording reasonable and sufficient opportunity of being heard to the assessee.

11. In the result, the appeal of the assessee in ITA No. 2812/DEL/2024 is allowed for statistical purposes.

The order is pronounced in the open court on 17.10.2024.

**Sd/-**  
**[ ANUBHAV SHARMA ]**  
**JUDICIAL MEMBER**

**Sd/-**  
**[NAVEEN CHANDRA]**  
**ACCOUNTANT MEMBER**

Dated: 17<sup>th</sup> OCTOBER, 2024.

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	