

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”: NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA , JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No. 26/DEL/2024
Assessment Year: 2013-14**

Madho Gopal Agarwal, A-58, Madhuban, Preet Vihar, New Delhi-110092. PAN: ACXPA 3780 E	<u>Vs</u>	DCIT, Circle 13(1), New Delhi.
APPELLANT		RESPONDENT
Assessee represented by	Shri Ankit Kumar, Adv.; & Shri Lalit Mohan, CA	
Department represented by	Shri Sanjay Kumar, Sr. DR	
Date of hearing	16.10.2024	
Date of pronouncement	16.10.2024	

ORDER

PER ANUBHAV SHARMA, JM:

The assessee has come in appeal against the order dated 06.11.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi, (hereinafter referred as “learned First Appellate Authority” or in short “FAA”) in Appeal no. NFAC/2012-13/10099250, for the assessment year 2013-14, arising out of the order dated 29.09.2021 u/s 147 of the Income-tax Act, 1961 (hereinafter referred as the “Act”), passed by the DCIT, Circle-13(1), Delhi (hereinafter referred in short as “Ld. AO”).

2. Facts, in brief, are that for A.Y. 2013-14 the assessee filed his return of income on 29.11.2016 declaring income of Rs. 25,51,880/-. The Assessment was completed u/s 153A read with section 143(3) of the Act at the returned income. Subsequently, case was reopened u/s 147 of the Act. In response to notice issued u/s 148 of the Act the assessee filed his return at Rs. 25,51,880/- as originally filed. The AO completed the assessment u/s 147 of the Act on 29.09.2021 at Rs. 27,31,88/- by adding Rs. 1,80,000/- as unexplained investment u/s 69 of the Act. Aggrieved against it the assessee preferred appeal before learned CIT(Appeals), who vide impugned order dated 06.11.2023 affirmed the action of AO. Aggrieved, the assessee is in appeal before this Tribunal.

3. At the outset learned AR submitted that the learned CIT(A) erred in affirming the order of Assessing Officer, ex parte, qua the assessee in limine without going into the merits of the case. It was specifically submitted that no notice u/s 143(2) of the Act was issued. He prayed that order of learned CIT(Appeals) may be set aside and the matter may be restored to the file of learned CIT(A) for decision on merit after affording adequate opportunity of being heard to the assessee.

4. Learned DR opposed the submissions and submitted that assessee has been negligent in not pursuing his case despite sufficient opportunities given by the learned CIT(A). He supported the order of learned CIT(A).

5. After hearing both sides it comes up that learned CIT(A) dismissed the assessee's appeal, inter alia, by observing as under:

“3.4 It is very clear from the above table that the appellant has chosen not to submit anything in support of his various grounds of appeal. In such a scenario, I am of the considered opinion that the appellant does not have anything to say or have anything to offer to the appellate authority in support of his various grounds of appeal, and thus, that the appellant does not want to press any of the grounds of appeal. In light of this, I do not see

any reason to interfere with the findings of the AO as enumerated in the assessment order.”

5.1 It comes up that in his ex parte order the learned First Appellate Authority has affirmed the order of Assessing Officer without going into the merits of the issue involved in appeal before him. Therefore, to be fair to both the parties, to subserve the interests of natural justice and to provide an opportunity to the assessee to represent its case properly, we hereby allow ground no. 2 with sub-grounds and set aside the order of learned CIT(Appeals) and restore the matter back to his file to decide the appeal in accordance with law, on merit, after affording adequate opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.

6. Appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court, after the hearing was concluded, on 16.10.2024.

Sd/-
(BRAJESH KUMAR SINGH)
ACCOUNTANT MEMBER

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI