

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G': NEW DELHI
BEFORE
BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
ITA No. 1339/Del/2024, (A.Y.2012-13)**

Simmi Madan C/o Advocate kanika jain D-80, LGF, Panchsheel Enclave, New Delhi PAN No: CNLPM1590H (Appellant)	Vs.	ITO Ward 45(1) New Delhi (Respondent)
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Appellant by	Ms. Kanika Jain, Adv
Respondent by	Ms. Shashi Kajle, Sr. DR

Date of Hearing	29/10/2024
Date of Pronouncement	05/11/2024

ORDER

PER YOGESH KUMAR U.S., JM :

This appeal is filed by the Assessee against the order of Learned Commissioner of Income Tax (Appeals)/ National Faceless Appeal Centre (NFAC) ["Ld. CIT(A)", for short], dated 20/02/2024 for the Assessment Year 2012-13.

2. The grounds of Appeal are as under: -

"1. The assessment order passed by the Ld. Assessing Office ("Ld. AO") under Section 144 r.w.s 147 of the Act making an addition / adjustment and subsequently upheld by the impugned appellate order passed by the NFAC is bad in law and on the facts and circumstances of the case.

2. *The Ld. AO and the Ld. CIT(A) have erred in law and on the facts and circumstances of the case in making/upholding the additions under section 69 of the Act amounting to INR 65,50,000.*
 3. *The Ld. CIT(A) acted in a mechanical manner while upholding the impugned decision as the detailed submissions made by Appellant during the appellate proceedings has not been considered.*
 4. *The impugned order passed by the Ld. CIT(A) is bad in law as the same has been passed without giving an opportunity to the Appellant to make submissions on merits and the same has been passed pursuant to filing of the application of additional evidence only.*
 5. *The Ld. CIT(A) has acted in a hasty manner while passing the impugned order as the documents filed by the Appellant have not been considered in correct background as stated in the additional evidence and wrong inference has been made thereon.”*
3. Brief facts of the case are that, an assessment order came to be passed on 13/12/2019 u/s 144 r.w. Section 147 of the Income Tax Act, 1961 ('Act' for short) by computing the income of the Assessee at Rs. 65,50,000/- as against the NIL income declared by the Assessee. Aggrieved by the assessment order dated 13/12/2019, the Assessee

preferred an Appeal before the CIT(A). During the First Appellate Proceedings, the Assessee filed an application under Rule 46A of the Income Tax Rules, 1962 ('Rule' for short) by producing certain documents as additional evidence. The Ld. CIT(A) dismissed the application filed by the Assessee under Rule 46A of the Rules and also dismissed the Appeal. As against the order of the Ld. CIT(A), the Assessee preferred the present Appeal on the grounds mentioned above.

4. The Ld. Counsel for the Assessee vehemently submitted that the Ld. CIT(A) committed error in not allowing the application for admission of additional evidence under Rule 46A of the Rules and further submitted that the those documents produced by the Assessee are very much essential to decide the lis and the Assessee is having very good case on merit, therefore, relying on those documents, sought for deletion of the addition.

5. Per contra, the Ld. Departmental Representative relied on the orders of the Lower Authorities and sought for dismissal of the Appeal.

6. We have heard both the parties and perused the material available on record. It is seen from the record, during the assessment proceedings the Assessee has been provided sufficient opportunities to appear and produce documents/make submissions, however, the Assessee failed to appear

before the A.O., Thus, the Ld. A.O. framed the assessment u/s 144 r.w. Section 147 of the Act. During the appellate proceedings though the Assessee has produced documents to substantiate the claim of the Assessee through an application filed under rule 46A of the Rules, the same has been dismissed by the Ld. CIT(A) on the ground that the Assessee failed to fulfill any of the conditions prescribed in the Rule. In our considered opinion, the Ld. CIT(A) ought to have considered the additional evidence and should have passed the order on merits. Considering the fact that even the assessment order has been framed u/s 144 of the Act, we restore the issue involved in the present Appeal to the file of the A.O. with a liberty to the Assessee to produce all the documents relied by her and further, the A.O. is directed to frame the assessment afresh in accordance with law after providing opportunity of being heard to the Assessee.

7. In the result, the Appeal of the Assessee is partly allowed for statistical purpose.

Order pronounced in open Court on 05th November, 2024

Sd/-

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Dated: 05/11/2024

R.N, Sr. PS

Sd/-

(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT, NEW DELHI