

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

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No.1618/Del/2024
Assessment Year: 2018-19

Mamta Dhama, C-4/184, Sector-36, Noida, Gautam Buddha Nagar, Uttar Pradesh	Vs.	Dy. CIT, National Faceless Assessment Centre, Delhi
PAN :AOPPM9343H		
(Appellant)		(Respondent)

Assessee by	Sh. Amol Sinha, Advocate
Department by	Sh. Amit Shukla, Sr. DR

Date of hearing	23.10.2024
Date of pronouncement	12.11.2024

ORDER

PER PRADIP KUMAR KEDIA, AM

Captioned appeal has been filed against the order of learned Commissioner of Income Tax (Appeals)-NFAC, dated 14th February, 2024 pertaining to assessment year 2018-19.

2. The assessee has raised several grounds to challenge the order of the CIT(A)-NFAC. One of the grounds pertains to violation of principles of natural justice by denying sufficient opportunity and passing *ex-parte* order by learned CIT(A).

3. When the matter was called for hearing, learned counsel for the assessee submitted that from the text and tenor of the first appellate order, it would be self-evident that reasonable opportunity of bearing heard was not given to the assessee at all and the first appellate proceedings were completed in a hurry solely relying upon assessment order *ex-parte*.

4. Learned counsel, thus, submitted that lack of opportunity to the assessee has resulted in miscarriage of justice. Learned counsel thus urged for suitable relief in the matter.

5. Learned DR referred to and relied upon the first appellate order.

6. We have carefully considered the rival submissions and perused the first appellate order as well as assessment order. From the fourth paragraph of the order passed under section 250 of the Act, it appears that three notices were issued by the CIT(A) to discuss the grievance raised by the assessee. The first notice was issued on 06.01.2023. Therefore, hearing was fixed 10 months later on 21.11.2023. The other two notices were issued in the month of January, 2024 for compliances. The mode of service of notice is not discernible from the first appellate order. It is also

not known, whether the notices have been actually served or not. The assessee claims to be not privy to any of the notices. Non-compliance of such notice has resulted in *ex-parte* order by the learned CIT(A). In this regard, we take note of the plea of the assessee that the assessee was not aware of issuance of such notices. It is not the case that the assessee is a habitual defaulter. The assessee has duly attended in the assessment proceedings and the assessment framed under section 143(3) of the Act. Thus, no presumption can be fairly drawn that non-compliance has occurred deliberately.

7. The assessee also contends that high-pitched assessment has been framed and it was solely in the interest of the assessee to promptly attend the proceedings as early as possible. Thus, non-attendance occurred before the CIT(A) is rather detrimental to the interest of the assessee. Thus, no culpability can be envisaged in the factual matrix. On appraisal, we find force in the assertion made on behalf of the assessee. As noted, the notices have been issued on two occasions within a span of one month. There can be variety of reasons for non-compliance, including compliances through digital ecosystem invoked and faceless

appeal proceedings recently introduced and replaced by earlier manual dispensation. Thus, no deliberate motive can *per se* be imputed. The plea of the assessee, thus, deserves to be viewed in benign manner.

8. Hence, in order to prevent miscarriage of justice and set right procedural impropriety, we consider it expedient to set aside the *ex-parte* order passed by CIT(A) and restore the appeal before the CIT(A) for fresh adjudication in accordance with law, after giving reasonable opportunity of being heard to the assessee. The assessee is also cautioned to attend the first appellate proceedings diligently without demur.

9. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 12th November, 2024

Sd/-
(VIMAL KUMAR)
JUDICIAL MEMBER

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Dated: 12th November, 2024.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi