

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "C", NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,
AND
SHRI YOGESH KUMAR US, JUDICIAL MEMBER

	ITA NO. 3441/Del/2024		
	A.YR. : 2017-18		
KAMAL CHARAN, 34, RAIL VIHAR, NEAR SARASWATI VIHAR PITAMPURA, NEW DELHI – 34 (PAN: ADYPC2281N)	VS.	ITO, WARD 43(6), DELHI	
(APPELLANT)		(RESPONDENT)	

Appellant by : Ms. Bharati Sharma, Adv.

Respondent by : Sh. Om Parkash, Sr. DR.

Date of hearing : 07.11.2024

Date of pronouncement : 12.11.2024

ORDER

PER SHAMIM YAHYA, AM :

The Assessee has filed the instant Appeal against the Order of the Ld. CIT(Appeal)/NFAC, Delhi dated 27.05.2024, relating to assessment year 2017-18 on the following grounds:-

1. That the order passed by the Ld. CIT(A) dated 27.5.2024, dismissing the appeal of the assessee ex parte and thereby upholding the assessment order passed under section 144 of the

Act is erroneous, bad in law and on facts, and contrary to the principle of natural justice.

2. That the Ld. CIT(A) has erred in law and on facts by confirming the addition made in the impugned assessment order of Rs. 1,45,03,160/- being cash deposited in the Axis Bank account of a firm named royal Impex, treating it as unexplained money of the appellant under section 69A of the Act.

2.1 That the AO and the CIT(A) failed to appreciate that the alleged cash deposit of Rs. 1,45,03,160/- in the Axis Bank account of Royal Impex did not belong to the appellant as the said account was never operated by the appellant, nor the impugned transactions were carried out by him.

2.2 That the AO as well as the CIT(A) also failed to appreciate that the appellant was a victim of fraud committed by two individuals namely, Shri Mayank Jain and Shri Varun Anand, who misused the bank account of appellant and dispute is pending in criminal investigation.

2. In this case, AO passed an ex parte order u/s. 144 of the Act. AO made addition on account cash deposited appearing in bank account amounting to Rs. 1,45,03,160/-. AO noted that several notices were sent to the assessee, but assessee did not respond.

3. Upon assessee's appeal, Ld. CIT(A) sustained the addition. He also noted that there was no response from the assessee.

4. Against this order, assessee is in appeal before us.

5. We have heard both the parties and perused the records. Ld. Counsel for the assessee pleaded that the notices did not reach to the assessee, hence, assessee could not respond to the notices. Hence, she prayed that assessee may be given an opportunity before the AO to properly canvass his case. Ld. DR did not object the aforesaid proposition.

5.1 After considering the aforesaid factual matrix, we are of the considered view, that interest of justice will be served, if the issues in dispute are remitted back to the file of the AO with the directions to decide the same afresh, after giving adequate opportunity of being heard to the assessee. We hold and direct accordingly.

6. In the result, the Assessee's appeal is allowed for statistical purposes.

Order pronounced on 12/11/2024.

Sd/-

(YOGESH KUMAR US)
JUDICIAL MEMBER

Sd/-

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

SRB

Copy forwarded to:-

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

Assistant Registrar