

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "SMC", NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,

	ITA NO. 1074/Del/2024		
	A.YR. : 2012-13		
NIRMALA DASS, C/O SANJEEV ANAND AND ASSOCIATES, 136, NAVYUG MARKET, GHAZIABAD (PAN: AQMPD6544N)	VS.	ITO, WARD 2(2)(5), GHAZIABAD CGO II HAPUR CHUNGI, GHAZIABAD	
(APPELLANT)		(RESPONDENT)	

Appellant by : Shri Sumit Gupta, CA

Respondent by : Shri Sanjay Kumar, Sr. DR.

Date of hearing : 12.11.2024

Date of pronouncement : 14.11.2024

ORDER

The Assessee has filed the instant Appeal against the Order of the Ld. CIT(Appeal)/NFAC, Delhi dated 18.01.2024, relating to assessment year 2012-13 on the following grounds:-

1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of the AO in framing the impugned reassessment order u/s. 144/147 and that too without assuming jurisdiction as per law and without complying with the mandatory conditions u/s. 147 to 151 as envisaged under the Income Tax Act, 1961.

2. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the addition of Rs. 42,26,000/- as unexplained by recording incorrect facts and findings and without observing the principles of natural justice.
3. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the addition of Rs. 42,26,000/- as unexplained when the deposit in bank account is out of genuine sources.
4. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts of the case in not reversing the action of AO in charging interest u/s. 234A, 234B and 234C of the Act.

2. In this case, AO passed an ex parte order u/s. 144 of the Act by making the addition of Rs. 42,26,000/- being cash deposits in bank which remained unexplained.

3. Upon assessee's appeal, Ld. CIT(A) sustained the addition.

4. Against the Ld. CIT(A)'s order, assessee is in appeal before me.

5. I have heard both the parties and perused the records. I note that both the lower authorities viz. AO as well as CIT(A) noted that assessee has not responded to the notices. Ld. Counsel for the assessee pleaded that the notices from the revenue authorities did not reach the assessee, which lead to the non-compliance, hence, he prayed that assessee may be given an opportunity before the AO to properly canvass the case. Ld. DR did not object the aforesaid proposition.

5.1 After considering the aforesaid factual matrix, I am 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. I hold and direct accordingly.

6. In the result, the Assessee's appeal is allowed for statistical purposes.
Order pronounced on 14/11/2024.

Sd/-

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

SRB

Copy forwarded to:-

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

Assistant Registrar