

आयकर अपीलीय अधिकरण
दिल्ली पीठ "बी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री एस रिफौर रहमान, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER

आअसं.3117/दिल्ली/2024 (नि.व. 2010-11)
ITA No.3117/DEL/2024 (A.Y.2010-11)

Chandra Pal,
Village Badha, Sikenderpur,
Haryana 122401
PAN: BCZPP-1373-H

..... अपीलार्थी/Appellant

बनाम Vs.

Income Tax Officer,
Ward 1(3), HSIDC Building, Vanijya Nikunj,
Udhyog Vihar, Phase-V, Gurugram

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Mahfuzur Rahman, Chartered Accountant
प्रतिवादीद्वारा/ Respondent by : Shri Amitabh Sah, Sr. DR
सुनवाई की तिथि/ Date of hearing : 13/11/2024
घोषणा की तिथि/ Date of pronouncement: : 13/11/2024

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as 'the CIT(A)') dated 30.04.2024, for assessment year 2010-11.

2. Shri Mahfuzur Rahman, appearing on behalf of the assessee submits that the CIT(A) has passed impugned order without considering submissions of the assessee.

He submitted that initial notices issued by the CIT(A) were never received by assessee, hence the assessee could not respond to the same. The assessee responded to notice issued by the CIT(A) on 05.02.2024. In response to said notice, the assessee filed written submissions, application under Rule 46A, paper book, bank statement, financial statements for Financial Year 2009-10, sales register, purchase register, cash book, ledger of suppliers, etc. He referred to acknowledgement receipt to substantiate that aforesaid documents were uploaded by the assessee online on 09.02.2024. The Id. Counsel for the assessee further submitted that even in assessment proceedings, the assessee could not make submissions as the notice was never served on the assessee. The Assessing Officer (AO) passed assessment order invoking the provisions of section 144 of the Income Tax Act, 1961(hereinafter referred to as 'the Act'). He prayed for an opportunity to make submissions before the lower authorities.

3. Per contra, Shri Amitabh Sah representing the department vehemently defended the impugned order and prayed for dismissing appeal of the assessee. He submitted that the assessee has been non cooperative and failed to respond to the notices issued by the AO during assessment proceedings and the CIT(A) in First Appellate proceedings.

4. We have heard the submissions made by rival sides and have examined the order of authorities below. A perusal of the assessment order dated 30.10.2017 passed u/s. 147 r.w.s. 144 of the Act shows that assessment has been completed in ex-parte proceedings. Notice u/s. 148 of the Act was issued to the assessee, in response to said notice no return was filed by the assessee. The subsequent notices

issued u/s. 142(1) of the Act to the assessee also remained un-responded. In First Appellate proceedings, the assessee furnished evidences alongwith application under Rule 46A and submissions before the CIT(A). To substantiate filing of application under Rule 46A and various documents, the assessee has placed on record acknowledgment of documents uploaded. The CIT(A) without taking cognizance of the said applications, documents furnished and the written submissions upload by the assessee on the portal of the department has disposed off appeal of the assessee in an ex-parte proceedings. Considering entire facts of the case, we deem it appropriate to restore this entire issue to the AO for *denovo* assessment after affording reasonable opportunity of making submissions to the assessee, in accordance with law. The AO shall serve notice to the assessee on address mentioned in Form No. 36 filed before the Tribunal or any other address provided by the assessee for service of notice to the AO. The assessee upon service of notice shall respond to the same, without fail.

5. In the result, impugned order is *set aside* and appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Wednesday the 13th day of November, 2024.

Sd/-

(S RIFAUR RAHMAN)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 13/11/2024

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI