

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "H", NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER

	ITA NO. 3880/Del/2024		
	A.YR. : 2012-13		
VINOD KUMAR GARG, IIB, 85A, NEHRU NAGAR, GHAZIABAD – 201001 UTTAR PRADESH (PAN: ACEPG1571C)	VS.	ITO, WARD 2(2)(5), GHAZIABAD	
(APPELLANT)		(RESPONDENT)	

Appellant by : Shri Gaurav Jain, Adv., Ms. Ridhi Karan, CA and Ms. Bharti Sharma, Adv.

Respondent by : Shri Amit Katoch, Sr. DR.

Date of hearing : 14.11.2024

Date of pronouncement : 19.11.2024

ORDER

PER SHAMIM YAHYA, AM :

The Assessee has filed the instant Appeal against the Order of the Ld. CIT(Appeal)/NFAC, Delhi dated 18.10.2023, relating to assessment year 2012-13 on the following grounds:-

1. That the order passed by the Id. Commissioner of Income Tax (Appeals) (hereinafter referred to as 'the CIT(A)') dated 18.10.2023, dismissing the appeal of. the assessee ex-parte and thereby upholding the assessment order passed under Section 147 read with Section 144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), is erroneous, bad in law, and against the principles of natural justice.

2. That the Ld. CIT (A) has erred in law and on facts in upholding the impugned assessment order, which was passed ex-parte, without considering that it was illegal, bad in law, without jurisdiction, and contrary to the principles of natural justice, and therefore deserved to be quashed.
3. That the Ld. CIT(A) has also grossly erred in sustaining the reassessment proceedings without appreciating that these proceedings were illegal, bad in law. and beyond jurisdiction, as they did not meet the requirements specified under sections 147 to 151 of the Act for a valid reopening of the assessment.
4. That the Id. CIT(A) has erred in law and on facts by confirming the addition made in the assessment order of Rs. 7,42,161/- on account of alleged . unexplained investment in property.
5. That the Id. CIT(A) has erred in law and on facts by confirming the addition made in the assessment order of Rs.44,50,000/-being cash deposited in the Canara bank account, treated as unexplained & undisclosed income of the assessee.

2. At the outset, it is noticed that there is a delay of 250 days in filing the appeal before the Tribunal. The reasonable cause for the same has been attributed to the old age of the assessee, hence, it is prayed that delay in dispute may kindly be condoned. Upon hearing the Ld. DR and perusing the records, in the interest of justice, the delay in dispute is condoned.

3. In this case, assessment order was framed u/s. 144 of the Act wherein, addition of Rs. 51,92,161/- on account of unexplained investment in cash deposits. Upon assessee's appeal, Ld. CIT(A) dismissed the appeal for non prosecution.

4. Against the above order of the Ld. CIT(A), assessee is in appeal before us.

5. We have heard both the parties and perused the records. Ld. Counsel for the assessee prayed that before the AO the assessee could not be presented because of the mistake of the counsel and before the Ld. CIT(A) assessee being a very old person could not access online data. He pleaded that assessee has not properly canvassed his case before the lower authorities, hence, he prayed that an opportunity may be given to assessee to canvass his case before the AO

by sending back the issues in dispute to the AO for deciding the same afresh.
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. The AO shall pass the order, 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 19/11/2024.

Sd/-

(VIMAL KUMAR)
JUDICIAL MEMBER

Sd/-

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

SRBHATNAGAR

Copy forwarded to:-

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

Assistant Registrar