



**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH "A", LUCKNOW**

**BEFORE SHRI SUDHANSHU SRIVATAVA, JUDICIAL MEMBER AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

ITA No.524/LKW/2024  
Assessment Year: 2017-18

<b>Vimlesh Kumar</b> Village and Post Thulendi, Bachhrawan, Raebareli- 229301.	v.	<b>Income tax Officer</b> Income Tax Building, Jail Road, Raebareli-229001.
<b>PAN:BLBPK4834R</b>		
(Appellant)		(Respondent)

Appellant by:	None (Adj. Application filed)		
Respondent by:	Shri Sanjeev Krishna Sharma, Addl. CIT(DR)		
Date of hearing:	18	11	2024
Date of pronouncement:	19	11	2024

**ORDER**

**PER ANADEE NATH MISSHRA, A.M.:**

This appeal has been filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals) [hereinafter as referred Ld. "CIT(A)"], National Faceless Appeal Centre (NFAC), Delhi dated 22.03.2024 for the assessment year 2017-18. The grounds of appeal of the assessee are as under: -

*"1 The Learned Income Tax Officer failed to appreciate the full and circumstances of the case while completing the assessment Rs.1,08,50,403/- against the returned income of Rs.Nil.*

*2. That the learned assessing officer erred in not providing reasonable and proper opportunity before completing the assessment.*

*3. Because the learned officer National Faceless Assessment Centre Delhi erred both on facts and in law by making an addition of Rs.3,39,303/- on account of disallowance of u/s 40(a)(ia) of the Act, 1961.*

*4. Because the learned officer National Faceless Assessment centre Delhi erred both on facts and in law by making an addition of Rs.66,25,550/- on account of addition of u/s 40A(3) of the Act, 1961.*

5. Because the learned officer National Faceless Assessment centre Delhi erred both on facts and in law by making an addition of Rs.66,25,550/- on account of addition of unexplained investment u/s 69 of the Act, 1961.

6. Because the order of the Learned office National faceless Assessment centre, is without any merits and based on conjuncture and surmises and this should cancel and the income returned should be accepted.

7. Because no proper reason have been forwarded by the Learned Assessing Officer before making the said additions.

8. Because the order of the Learned Assessing is arbitrary capricious, misconceived, erroneous and against the principle of natural justice.”

2. This appeal has been filed beyond time limit prescribed under section 254(3) of the Income Tax Act, 1961 (hereinafter “the Act”). The assessee has filed an application seeking condonation of delay in filing of this appeal on Medical Grounds. The application for condonation of delay is supported by an affidavit of the assessee. The Ld. Sr. Departmental Representative for Revenue did not express any objection to the delay being condoned. In view of the foregoing, and the provisions of Section 254(3) of the Act, we condone the delay in filing of this appeal. The appeal is admitted for decision of merits.

3. In this case, the assessment order dated 21.03.2024 was passed by the Assessing Officer (“AO”) under section 147 read with section 144 read with section 144B of the Act wherein the assessee’s total income was assessed at Rs.1,08,50,403/-. The assessee’s appeal against the assessment order was dismissed by the Ld. CIT(A) through the impugned appellate order was dated 22.03.2024. The present appeal has been filed by the assessee against the aforesaid impugned appellate order dated 22.03.2024 of the Ld. CIT(A).

4. At the time of hearing before us, the Assessee was represented by none and Revenue was represented by Shri Sanjeev Krishna Sharma, Addl. CIT-Departmental Representative

(DR). On perusal of the impugned appellate order dated 22.03.2024, it is found that the Ld. CIT(A) has not decided the assessee's appeal on merits. In paragraph no. 2 of the impugned appellate order, the Ld. CIT(A) has narrated the grounds of appeal as well as the statement of facts filed by the assessee. However, the Ld. CIT(A) did not pass a speaking order on the merits of the grounds of appeal. He dismissed the assessee's appeal in a summary manner, taking adverse view of non-compliance on the part of the assessee to the notices dated 24.03.2023, 16.01.2024 & 13.03.2024 issued by the office of the Ld. CIT(A).

4.1 At this stage, we would like to reproduce the Section 250(4) and 250(6) of the Act; as under: -

*"The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall **state points for determination the decision thereon and the reason for the decision.**"*

4.2 We have heard the Ld. DR. We have perused the materials available on record. On perusal of the impugned appellate order dated 22/03/2024 of the Ld. CIT(A), we find that the Ld. CIT(A) had issued notices, which however, were not complied with by the assessee. Taking adverse view of non-compliance from assessee's side the Ld. CIT(A) dismissed the assessee's appeal for want of prosecution. However, the Ld. CIT(A) has statutory duty, prescribed u/s 250(4) & 250(6) of the Act to pass a speaking order on the merits of the case whether or not there was any representation from the assessee's side. The order of the Ld. CIT(A) in disposing of the assessee's appeal, is required to be in writing, and it is and the order is further required to contain the point for determination, the decision thereon and the reason for the decision. Thus, it is the statutory duty of the Ld. CIT(A) to pass a speaking order on merits of the case. Thus, dismissing the

assessee's appeal *in limine*, for want of prosecution, without going into the merits of the case was erroneous on the part of the Ld. CIT(A). The Ld. Departmental Representative for Revenue, in the facts and circumstances as discussed, was of the view that the impugned order of Ld. CIT(A) may be set aside and issues in dispute may be restored back to the file of Ld. CIT(A) with direction to pass fresh order in accordance with law, after providing reasonable opportunity to the assessee.

5. In view of the foregoing, and in the specific facts and circumstances of the present case before us; we set aside the impugned order of the Ld. CIT(A) dated 22/03/2024 and we restore the issue in dispute to the file of the Ld. CIT(A), with direction to pass denovo order in accordance with law, after providing reasonable opportunity to the applicant/assessee. All grounds of appeal are treated as disposed of in accordance with the aforesaid direction.

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

Order is pronounced today in open court on 19/11/2024.

Sd/-  
[SUDHANSHU SRIVASTAVA]  
JUDICIAL MEMBER

Sd/-  
[ANADEE NATH MISSHRA]  
ACCOUNTANT MEMBER

DATED: 19/11/2024

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard file

//True Copy//

By order

Assistant Registrar