

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. 291/Del/2024		
	A.YR. : 2015-16		
VIKAS SHARMA, 301, KRIT PLAZA, A-BLOCK MARKET, SURAJMAL VIHAR, DELHI – 110 092 (PAN: AVJPS8784R)	VS.	ACIT, CIRCLE 55(1), VIKAS BHAWAN, NEW DELHI – 2	
(APPELLANT)		(RESPONDENT)	

Appellant by : Shri Salil Kapoor, Adv. & Shri Tarun  
Chanana, Adv.

Respondent by : Shri Amit Katoch, Sr. DR.

Date of hearing : 14.11.2024

Date of pronouncement : 20.11.2024

**ORDER**

**PER SHAMIM YAHYA, AM :**

The Assessee has filed the instant Appeal against the Order of the Ld. CIT(Appeal)/NFAC, Delhi dated 28.11.2023, relating to assessment year 2015-16 on the following grounds:-

1. The Assessment Order dated 30.12.2017 passed under *Section 143(3) of the Income Tax Act, 1961* ('the Act') for Assessment Year ('AY') 2015-16 by the Assistant Commissioner of Income Tax, Circle 55(1), New Delhi ('AO') and the demand raised thereunder are illegal, bad in law, without jurisdiction, time-barred, and liable to be quashed. The National Faceless

*Appeal Centre ('CIT(A)') vide order dated 28.11.2023 has also erred in upholding the said assessment order.*

2. *That in view of the facts and circumstances of the case, the CIT(A) has - erred in confirming/upholding the additions/disallowances made by the AO vide order dated 30.12.2017 and assessing the total income of the Appellant at Rs. 1,42,46,930/- against the loss of Rs. 1,51,92,311/- as declared by the Assessee in his returned income.*
3. *That in view of the facts and circumstances of the case and in law, the AO has grossly erred in rejecting the books of accounts of the Assessee under Section 145(3) of the Act.;*
4. *That in view of the facts and circumstances of the case and in law, the AO has grossly erred in making an addition of Rs. 2,98,46,874/- by rejecting the books of accounts under Section 145(3) of the Act. The addition made is illegal, bad in law, and is liable to be deleted. Further, the order of the CIT(A) upholding the same are also liable to be deleted.*
5. *That in view of the facts and circumstances of the case and in law, the AO has grossly erred in rejecting the books of accounts under Section 145(3) of the Act and estimating the Net Profit of the Assessee for the relevant Assessment Year at rate of 7.75% of Total Sales.*
6. *That in view of the facts and circumstances of the case and in law, the addition made by the AO on the basis of estimation of Net Profit of Total Sales is uncalled for, based on surmises and conjectures and is highly excessive.*
7. *That in view of the facts and circumstances of the case and in law, the AO has grossly erred in rejecting the books of accounts under Section 145(3) of the Act without according the Assessee a right of hearing before rejecting the books thereby violating his rights/principles of Natural Justice and causing him great prejudice.*
8. *That in view of the facts and circumstances of the case and in law, the AO has erred in not providing sufficient and adequate' opportunity to the Assessee to represent its case.*
9. *That, in view of the facts and circumstances of the case, the order of the CIT(A) dated 28.11.2023 has been passed without giving the Assessee reasonable opportunity to present its case and not providing him with the opportunity of personal hearing and hence, violating his rights/principles of Natural Justice and causing him great prejudice.*
10. *That in the view of facts and circumstances of the case, the various observations made: by AO and as' upheld by the CIT(A) are incorrect, illegal, and bad in law & based on surmise and conjectures.*

2. In this case, AO made an addition of Rs. 2,98,46,874/- and completed the assessment u/s. 143(3) of the Act by assessing the total income at Rs. 1,42,46,930/-.

3. Upon assessee's appeal, Ld. CIT(A) confirmed the AO's action.
4. Against the order of the Ld. CIT(A), assessee is in appeal before us.
5. At the time of hearing, Ld. AR for the assessee pleaded that due to old age of the assessee, assessee has not properly represented the case before the Ld. CIT(A), hence, Ld. CIT(A) passed an exparte order. He submitted that an opportunity may be granted to the assessee to canvass his case properly before the Ld. CIT(A). Ld. DR did not have any objection to this proposition.
6. We have heard both the parties and perused the records. We note that Ld. CIT(A) has noted that the notice served upon the assessee has not been complied with, hence, he passed an exparte order. In this view of the matter, 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 Ld. CITA(A) with the directions to pass a speaking order on the merits of the case, after giving adequate opportunity of being heard to the assessee. We hold and direct accordingly.
7. In the result, the Assessee's appeal is allowed for statistical purposes.

Order pronounced on 20/11/2024.

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