

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES : F : NEW DELHI

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.3840/Del/2023  
Assessment Year: 2017-18

Rajesh Sharma,  
7B 2TS, Malviya Nagar,  
New Delhi – 110 017.

Vs Income Tax Officer,  
Ward-30(2),  
New Delhi.

PAN: AVMPS4502J

(Appellant)

(Respondent)

Assessee by	: Shri Apoorv Agarwal, CA & Shri Gaurav Sachdeva, CA
Revenue by	: Ms Harpreet Kaur Hansra, Sr. DR
Date of Hearing	: 25.11.2024
Date of Pronouncement	: 28.11.2024

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the assessee against the order dated 09.11.2023 of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, NFAC, Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') in Appeal No.CIT(A), Delhi-10/10079/2020-21 arising out of the appeal before it against the order dated 26.06.2020 passed

u/s 154 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') by the CPC, Bengaluru (hereinafter referred to as the Ld. AO).

2. On hearing both the sides, it comes up that amongst other grounds on merits, the assessee has raised grounds No.1 and 2 submitting that the impugned order of the NFAC has been passed without serving notice and effective opportunity of hearing. In this context, although the ld. DR has supported the findings of the NFAC, we find that the assessee had preferred the appeal before the NFAC against the impugned order passed by the CPC u/s 154 of the Act on 08.06.2020 whereby the CPC had dismissed the rectification application of the assessee. The NFAC, after taking into account, the fact that notices were issued on three occasions, preferred to proceed against the assessee/appellant *ex parte* assuming, that the assessee is not interested to prosecute the appeal. However, we find that in regard to notice dated 25.10.2023 by which the NFAC has fixed date of hearing and filing of submissions as 03.11.2023, the assessee had requested for adjournment. NFAC, without considering the same, preferred to proceed *ex parte* and then assumed that as assessee is not appearing the assessee has no grievance against the impugned order, thus, the merits were not examined.

3. The impugned order is, thus, not sustainable in the eyes of law as on the one hand the assessee was not given due opportunity of hearing and filing

submissions and on the other hand the merits of the impugned order of CPC were not examined.

4. Accordingly, we sustain ground No.1 and 2 and **allow the appeal of the assessee for statistical purposes** with the direction that NFAC shall restore the appeal to its records and after giving the assessee a fair opportunity of hearing proceed to decide afresh on the merits of the grounds as raised before NFAC.

Order pronounced in the open court on 28.11.2024.

Sd/-

(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER

Dated: 28<sup>th</sup> November, 2024.

dk

Copy forwarded to:

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

Sd/-

(ANUBHAV SHARMA)  
JUDICIAL MEMBER

Asstt. Registrar, ITAT, New Delhi