

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "B", NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER

	ITA NO. 657/Del/2024		
	A.YR. : 2017-18		
GAGAN ARORA, AD-34, FIRST FLOOR, TAGORE GARDEN, NEW DELHI – 110 027 (PAN: AFJPA5678Q) (APPELLANT)	VS.	ASSESSMENT INCOME DEPARTMENT, DELHI (RESPONDENT)	UNIT, TAX

Appellant by : Ms. Chinu Bhasin, CA

Respondent by : Shri Rajesh Kumar Dhanesta, Sr. DR.

Date of hearing : 25.11.2024

Date of pronouncement : 28.11.2024

ORDER

PER SHAMIM YAHYA, AM :

The Assessee has filed the instant Appeal against the Order of the Ld. CIT(Appeal)/NFAC, Delhi dated 22.12.2023, relating to assessment year 2017-18 on the following grounds:-

1. The impugned assessment order passed under Section 147 r.w.s 144 is bad in law and void -ab – initio.
2. The Ld.AO erred in passing an ex-parte order without providing an

opportunity of being heard to the Assessee. The Ld.AO failed to appreciate that no notice of reassessment was ever served on the Assessee, accordingly, such an ex-parte order is in gross violation of principles of natural justice.

3. The Ld.AO erred in concluding tire reassessment proceedings under Section 147 r.w.s. 144 without issuing notice u/s. 143(2), thus, the instant assessment proceeding are invalid in law.
4. The Ld. AO erred in obtaining proper sanction under Section 151/hence, the reassessment proceedings are vitiated in law.
5. The Ld. AO erred in initiating the reassessment proceedings without independent inquiry or application of mind on tire facts of the case.
6. The Ld.AO erred in issuing an assessment order which was not even clear but had incomplete tables and numbers which were beyond comprehension of the Assessee, thus, against the interest of justice.
7. With regard to the facts and circumstances of the case and law, the Ld. AO grossly erred in making an addition of Rs.1,33,22,831 under Section 69A without taking into consideration tire explanation of the Assessee regarding the nature and source of deposit made in the bank account of Assessee.
8. The Ld. AO erred in framing an addition under section 69A for non-recording of cash deposit in books without appreciating that the cash deposit were duly reflected in bank account and the source of the same was from, the business of the Assessee.
9. On a without prejudice basis, the Ld.AO erred in considering the entire

receipts as income of the Assessee.

10. The Ld. CIT(A) grossly erred in rejecting appellant's appeal out-rightly for delayed filing of appeal without appreciating that there was a sufficient cause for the delay as the appellant became aware of the assessment order as well as the reassessment proceedings after a long period and thereafter filed the appeal requesting for condonation of delay.
11. The Ld. AO erred in computing tax demand of Rs.2,72, 64,684 by including income from other sources of Rs.2,66, 45,662 which is not at all related to the facts of the case.
12. That having regard to the facts and circumstances of the case, Ld.AO erred in law and on facts in charging interest u/s 234A and 234B of Income Tax Act, 1961.
13. The Ld.AO grossly erred in initiating penalty proceedings u/s 271AAC of the Act.
2. In this case, AO made an addition of Rs. 1,33,22,831/- and completed the assessment u/s. 147 r.w.s. 144 read with section 144 B of the Act by assessing the total income at Rs. 1,33,23,831/-.
3. Upon assessee's appeal, Ld. CIT(A) dismissed the appeal of the assessee on account of delay of 146 days in filing the appeal before him.
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 contended that assessee could not receive the assessment order, as it was sent on email address of the

another counsel, which was not delivered to the assessee and this has lead to delay of 146 days in filing the appeal before the Ld. CIT(A). Hence, he prayed that the delay of 146 days may please be condoned and an opportunity may be given to the assessee to canvass his case before the Ld. CIT(A). Ld. DR did not have any serious objection to this proposition.

6. We have heard both the parties and perused the records. In view of the aforesaid facts and circumstances of the case and in the interest of justice, the delay of 146 days is hereby condoned and 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 28/11/2024.

Sd/-

(SUDHIR PAREEK)
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