

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,  
NEW DELHI

BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER AND  
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 1302/DEL/2024 [A.Y 2018-19]

Shri Alok Dave  
JG-2/764, B-First Floor,  
DDA, LIG Flats, Vikaspuri  
New Delhi

Vs.

The Income tax Officer  
Ward - 44(1)  
New Delhi

PAN - AIIPD 5786 G

(Applicant)

(Respondent)

Assessee By : Shri Paritosh Jain, Adv

Department By : Shri Vipul Kashyap, Sr. DR

Date of Hearing : 29.10.2024

Date of Pronouncement : 03.12.2024

**ORDER**

**PER NAVEEN CHANDRA, ACCOUNTANT MEMBER:-**

This appeal by the assessee is preferred against the order of the  
NFAC, Delhi dated 24.01.2024 pertaining to A.Y 2018-19.

2. The assessee has raised the following grounds of appeal:

"1. That on the facts and circumstances of the case, the appellate order passed by the Id. CIT(A) is bad in the eyes of law and on facts.

2. That on the facts and circumstances of the case, the CIT(A) order erred in not adjudicating and dismissing the appeal for non-prosecution which is gross violation of principles of natural justice.

3. That on the facts and circumstances of the case, the Id. CIT(A) erred both in law and facts in confirming addition of Rs. 147,38,00,803/- u/s 69A of the Act on account of unexplained money made by the Assessing Officer in total gross error and in biased and prejudice manner as the total amount credited in respective bank accounts of the appellant is Rs. 9,54,43,373/- only through RTGS without verifying from the respective bank statements available with him/on record.

4. That on the facts and circumstances of the case, the Id. CIT(A) erred both in law and facts in confirming addition of Rs. 147,38,00,803/- u/s 69A of the Act on account of unexplained money made by the Assessing Officer in total gross error and in biased and prejudice manner without appreciating the reply filed by the assessee during the course of assessment proceedings."

3. Representatives of both the sides were heard at length. Case records carefully perused. Relevant documentary evidence brought on record duly considered in light of Rule 18(6) of the ITAT Rules.

4. The sum and substance of the grievance of the assessee is that the ld. CIT(A) has grossly erred in deciding the appeal ex parte.

5. Facts on record show that assessment was framed u/s 143(3) of the Income-tax Act, 1961 [the Act, for short]. Notices issued to the assessee from time to time were

6. Briefly stated, the facts of the case are that the assessee filed his Return of Income in the status of an individual on 31.08.2018 declaring an income of Rs. 3,33,950/- after claiming deductions under chapter - VIA of Rs. 85,000/- The assessee has also shown exempt income of Rs. 63,200/-. Return was selected for scrutiny assessment through CASS to verify high risk transactions and accordingly, statutory notices were issued and served upon the assessee.

7. During the course of assessment proceedings, the Assessing Officer observed that even after numerous notices through registered email, there was no compliance from the side of the assessee. Left with no choice, the Assessing Officer assessed the total income of the assessee at Rs. 147,41,32,603/-. Penalty notices u/s 274 of the Act were issued separately.

8. Aggrieved, the assessee went in appeal before the ld. CIT(A).

9. The ld. CIT(A) upheld the order of the Assessing Officer by observing that the assessee never came forward with his explanation to the grounds despite being offered number of opportunities through hearing notices. Accordingly, the ld. CIT(A) dismissed the grounds and upheld the addition made by the Assessing Officer.

10. Before us, the ld. counsel for the assessee vehemently argued that both the lower authorities have erred in deciding the appeal exparte.

11. Per contra, the ld. DR fairly conceded that the orders of the ld. CIT(A) are ex- parte.

12. Having heard the rival submissions, we are of the considered view that both the lower authorities ought to have given a reasonable and adequate opportunity of being heard to the assessee. Therefore, in the interest of justice and fair play, we deem it fit to restore the appeal to the file of the Assessing Officer. The Assessing Officer is directed to decide the appeal afresh after affording a reasonable and adequate opportunity of being heard to the assessee. The assessee is also directed to produce necessary documents to justify its claim as and when called to do so.

13. In the result, the appeal of the assessee in ITA No. 1302/DEL/2024 is allowed for statistical purposes.

The order is pronounced in the open court on 03.12.2024.

Sd/-

**[VIKAS AWASTHY]  
JUDICIAL MEMBER**

Sd/-

**[NAVEEN CHANDRA]  
ACCOUNTANT MEMBER**

Dated: 03<sup>rd</sup> DECEMBER, 2024.

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	