

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'SMC' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER**

ITA No.247/Del/2024  
Assessment Year: 2009-10

Piyush Swami, 3 Gyan Lok, Hapur, Uttar Pradesh	<b>Vs.</b>	Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre, Delhi
<b>PAN :ICRPS6836P</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	None
Department by	Sh. Yogesh Sharma, Sr. DR

Date of hearing	07.11.2024
Date of pronouncement	02.12.2024

**ORDER**

This assessee's appeal for assessment year 2009-10, arises against the Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre [in short, the "CIT(A)-NFAC"], Delhi's DIN and order No. ITBA/NFAC/S/250/2023-24/1058364074(1) dated 30.11.2023 involving proceedings under section 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Case called twice. None appears at the assessee's behest. I accordingly proceeded ex-parte against him.

3. It emerges during the course of hearing that the CIT(A)-NFAC's ex-parte lower appellate discussion affirming assessment

findings dated 29.11.2016 making section 69 unexplained investment of Rs.33.76 lakhs have neither framed any points of determination nor any speaking adjudication thereof, as contemplated under section 250(6) of the Act.

4. Coupled with this, assessee's claims his status as a non-resident as well, which is seriously objected from the departmental side.

5. Be that as it may, the fact remains that the assessee's lower appeal has not seen its adjudication, as per law in the foregoing terms.

6. I accordingly deem it appropriate in the larger interest of justice to restore the same back to the CIT(A)-NFAC for its afresh adjudication as per law, subject to a rider that the taxpayer shall only plead and prove all the relevant facts at his own risk and responsibility in consequential proceedings.

8. This assessee's appeal is allowed for statistical purposes.

***Order pronounced in the open court on 2<sup>nd</sup> December, 2024***

***Sd/-***  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 2<sup>nd</sup> December, 2024.

RK/-

Copy forwarded to:

1. Appellant

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

Asst. Registrar, ITAT, New Delhi