

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "B", NEW DELHI

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

	ITA NOS. 3471 & 3470/Del/2024		
	A.YR. : 2015-16		
GOVIND JHA FLAT NO. 10A, CITIZEN ENCLAVE, ROHINI, SECTOR-16 PO, ROHINI, NORTH WEST DELHI, NEW DELHI – 85 (PAN:- AEFPJ8348M)	VS.	NFAC, DELHI NEW DELHI	
(APPELLANT)		(RESPONDENT)	

Appellant by : Sh. Nishant Maitin, CA

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

Date of hearing : 26.11.2024

Date of pronouncement : 06.12.2024

ORDER

PER SHAMIM YAHYA, AM :

These appeals by the assessee against the respective orders of the Ld. CIT(A), NFAC, New Delhi dated 24.07.2024 & 25.07.2024 respectively wherein, quantum addition as well as penalty has been sustained, which are pertaining to assessment year 2015-16.

2. The grounds raised in the quantum appeal read as under:-

1. The order passed by Id Commissioner of Income-tax (Appeals), NFAC is unjust, unwarranted and bad in law.
2. The Id Commissioner of Income-tax (Appeals), NFAC failed to appreciate and/or overlooked and/or did not consider the facts of the case.
3. On the facts and circumstances of the case, the Id Commissioner of Income-tax (Appeals), NFAC erred in confirming the treating of amount of deposit of Rs 1,11,83,000/- as income of the appellant.
4. On the facts and circumstances of the case, Id Commissioner of Income-tax (Appeals), NFAC erred in confirming the addition of Rs 1,11,83,000/- to the income of the appellant.
5. On the facts and circumstances of the case, the Id Commissioner of Income-tax (Appeals), NFAC erred in confirming the treating of amount of Rs 50,33,860/-, being the investment in mutual funds, as income of the appellant.
6. On the facts and circumstances of the case, the Id Commissioner of Income-tax (Appeals), NFAC erred in confirming the addition of Rs 50,33,860/-, being the investment in mutual funds, to the income of the appellant.
7. On the facts and circumstances of the case, the Id Commissioner of Income-tax (Appeals), NFAC erred in confirming the treating of entire amount of-Rs 1,38,049/-, as income of the appellant without giving any effect of admissible deductions on account of interest income as envisaged in law.

8. The appellant craves leave to add, amend, rectify, modify or otherwise alter any ground of appeal.

3. The grounds raised in the penalty appeal read as under:-
 1. The appellant is a retired citizen aged around 72 years. That he had retired from active working during the financial year 2012-13.
 2. That certain notices relating to relevant assessment years were issued by department. That the appellant not being conversant with the technicalities of accessing the email could not lay his hands on the notices so issued.
 3. That for the relevant year, the appellant had negative income and as such did not file his return of income.
 4. That an ex-parte assessment was completed u/s 147 r.w 144 of Income-tax Act, 1961 by determining income of the appellant at Rs 1,63,39,910/- by making addition on account of amount of Rs 1,11,68,000/- deposited in bank account and amount invested for purchase of mutual funds amounting to Rs 50,33,860/- and Rs 1,38,049/- on account of Interest on deposits.
 5. The Id AO further imposed penalty u/s 271(1)(c) of the act.
 6. That an appeal was preferred against the order passed by the Id AO before the Id Commissioner of Income-tax (Appeals), NFAC. That adjournment requests were filed before the Id Commissioner of Income-tax (Appeals), NFAC on two occasions on account of nonavailability of the authorised representative of the appellant.
 7. That no further notice, whatsoever, was received and an ex-parte order was passed by the Id Commissioner of Income-tax (Appeals), NFAC.

8. Hence, this appeal against levy of penalty u/s 271(1)(c) of the act.

4. In this case assessment was completed u/s. 147 r.w.s. 144 of the Act at the assessed income at Rs. 1,63,39,910/- against the NIL returned income. AO in the assessment noted that none had presented on behalf of the assessee during the proceedings. In the penalty proceedings, on the same income, penalty was levied amounting to Rs. 55,07,012/-. In the penalty order, it was noticed that there was no representation from the assessee. Ld. CIT(A) in quantum as well as penalty appeals confirmed the action of the AO, while noting that there was no representation from the assessee.

5. Against these orders, the assessee is in appeals before us.

6. We have heard both the parties and perused the records. Ld. Counsel for the assessee pleaded that the assessee is 70 years old person who is not well-versed with the email and other electronic devices. He submitted that ignorance on the part of the assessee lead to non-representation before the authorities below. Hence, he prayed that the matter may be remitted back to the file of the AO for fresh adjudication. He undertook to appear before the authorities below in the proceedings. Per contra, Ld. DR did not have any serious objection to this proposition.

7. In view of the aforesaid facts and circumstances of the case and in the interest of justice, we deem it fit and proper to remit back the issues in both the appeals viz. quantum as well as penalty to the file of the Assessing Officer with

the directions to pass the speaking orders on the merits of the case, after giving adequate opportunity of being heard to the assessee. Assessee is also directed through his Authorised Representative to appear before the AO and fully cooperate with the AO during the proceedings. We hold and direct accordingly.

8. In the result, both the Assessee's appeals are allowed for statistical purposes.

Order pronounced on 06/12/2024.

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