

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F' NEW DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No. 3258/Del/2024
(Assessment Year : 2018-19)

Wamika Hospitality Pvt. Ltd. C-94, Ring Road, Wazirpur Industrial Area, Delhi-110 052 PAN : AABCW 0005 F (Appellant)	Vs.	ITO Ward – 27(1), Delhi – 110 092 (Respondent)
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Assessee by	Shri Ruchesh Sinha, Adv. and Ms. Monalisa, Adv.
Respondent by	Ms. Harpreet Kaur Hansra, Sr. D.R.

Date of Hearing	10.12.2024
Date of Pronouncement	13.12.2024

ORDER

PER VIMAL KUMAR, JM:

1. The appeal filed by assessee is against the order dated 14.05.2024 of Learned Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as 'Ld. CIT(A)'] arising out of penalty order dated 29.09.2023 by the NeAC, Delhi (hereinafter referred as 'Ld.AO') under section 271DA of the Income Tax Act,

1961 [hereinafter referred to as “the Act”] for the Assessment Year 2018-19.

2. Brief facts leading to this case is this that the appellant/assessee company did not file its original return of income for the A.Y. 2018-19. As per information with the Department, the assessee deposited cash to the tune of Rs.8,86,49,000/-. The case was reopened under section 147 of the Act and notice under section 148 of the Act was issued on 31.03.2022. In response to notice, assessee filed return for A.Y. 2018-19 declaring an income of Rs.1,47,680/-. The assessment order under section 147 r.w.s 144B of the Act was passed on 27.03.2023 by accepting return income of Rs.1,47,680/-.

3. During the course of assessment proceedings, assessee stated that the cash of Rs.8,86,49,000/- was out of business receipts. The total turnover of the company during the year was Rs.13,58,61,751/-. In the assessment order, learned AO found that assessee has taken cash receipts in contravention of the provision of section 269ST of the Act. Penalty proceedings were initiated. Assessee submitted submissions on 24.09.2023. Learned AO concluded penalty proceedings vide order dated 29.09.2023.

4. Appellant/assessee preferred appeal before the learned CIT(A) which was dismissed in part vide order dated 14.05.2024.

5. Being aggrieved, appellant/assessee preferred present appeal before the Tribunal.

6. Learned Authorized Representative for the assessee/appellant at the time of hearing submitted that learned CIT(A) upheld the penalty order dated 29.09.2023. The learned CIT(A) had issued notices for hearing dated 30.03.2024, 29.02.2024 and 10.01.2024 which were not received by the assessee in the due time and hence, assessee was unable to file any reply or appear and present the case. The notices were sent to the E-mail ID of Mr. Akash Verma (CA) who was handling the matter and did not inform the assessee. Mr. Harish Mehta, Accountant of company dealing with the accounts and coordinating with CA Mr. Akash Verma had put his mail ID on the portal for any communication. After resignation of Mr. Mehta, (Accountant) nobody got information about the notices. Learned CIT(A) confirmed the penalty order without giving any proper opportunity of being heard to the assessee.

7. Learned Departmental Representative of the Department of Revenue submitted that despite repeated notices, appellant/assessee had failed to appear before the learned CIT(A).

8. From examination of record in light of aforesaid rival contentions, it is crystal clear that learned CIT(A) vide *ex-parte* order dated 14.05.2024 upheld the penalty order dated 29.09.2023.

Learned CIT(A) had passed *ex parte* order since appellant/ assessee failed to appear despite several notices. In view of the above material facts and interest of justice, it is considered expedient to restore the matter to the file of the learned CIT(A) for fresh decision in accordance with law.

9. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on this day 13th December, 2024

**Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER**

**Sd/-
(VIMAL KUMAR)
JUDICIAL MEMBER**

Dated: 13.12.2024

Priti Yadav, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI