

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "C", NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,  
AND  
SHRI YOGESH KUMAR US, JUDICIAL MEMBER

	ITA NO. 1648/Del/2024		
	A.YR. : 2012-13		
JAI BAJRANG STEEL, E-41, R.I.A., KHUSHKHERA BHIWADI, ALWAR, RAJASTHAN (PAN: AAHFJ7522R)	VS.	ITO, WARD 44(6), NEW DELHI ROOM NO. 1702, E-2 PRAYAKSH KAR BHAWAN, CIVIC CENTRE, MINTO ROAD, NEW DELHI	
(APPELLANT)		(RESPONDENT)	

Appellant by : Shri Rahish Mohmmmed, CA &  
Shri Raj Kapoor, CA  
Respondent by : Shri Om Parkash, Sr. DR.

Date of hearing : 12.12.2024

Date of pronouncement : 16.12.2024

**ORDER**

**PER SHAMIM YAHYA, AM :**

The Assessee has filed the instant Appeal against the Order of the Ld. CIT(Appeal)/NFAC, Delhi dated 06.3.2024, relating to assessment year 2012-13 on the following grounds:-

1. That on the facts and in the circumstances of the case, the Id. CIT (A),NFAC, Delhi has grossly erred in the violating the principle of faceless appeal as announced for justices of honest taxpayers and the functioning of faceless processing's in honesty and judicially manner and to avoid litigation as created unnecessary by the AO.
2. That the Ld. CIT (A), NAFC, Delhi has always provided very short time (i.e. 7 days or less than 7 days) to submit the responses in maximum hearing fixed for submission.

Further Id. CIT (A) was so in hurry during the appellant proceedings as even not considered the additional evidences online submitted on 27.11.2023 under rule 46A of the IT rules, 1962. Therefore, the impugned appeal order is passed by NAFC in gross and serious violation of principle of natural justice.

3. On the facts and in the circumstances of the case and in law, the Id. AO as well as the Id. CIT (A), NFAC, Delhi has grossly erred in making & confirming the additions of Rs. 50.00 Lakh received on account of cancellation of agreement to sale dated 07.02.2012 as income from other sources, whereas this transaction was duly recorded in the audited books of accounts, financial statements and also duly declared Income tax returns filed for the year under consideration, simply on the basis of assumptions & presumptions and in arbitrary manner. Hence the impugned assessment order is totally illegal and unlawful manner in so far impugned additions are concerned.
  4. The Assessment order of the learned ITO is erroneous on the facts and in the law. On the *facts* and in the circumstances of the case he ought to have accepted the returned income. Thus, the addition should be deleted.
  5. On the facts and in the circumstances of the case and in law, the Id. AO as well as the Id. CIT (A), NFAC, Delhi has grossly erred in making & confirming for charging interest u/s 234A, 234B and 234C of the IT Act, 1961.
  6. That the appellant craves his right to add, annul, amend, alter, withdraw and/or substitute any/ or all of the grounds of appeal before the finalization of the appeal.
2. In this case, AO made addition of Rs. 50,00,000/- by treating the same as income from other sources and assessed the income at Rs. 50,45,280/- u/s. 147 r.w.s. 144 of the Act. Upon assessee's appeal, Ld. CIT(A) dismissed the appeal of the assessee by confirming the addition.
3. Against the order of the Ld. CIT(A), assessee is in appeal before us.
4. We have heard both the parties and perused the records. Ld. Counsel for the assessee pleaded that assessee could not appear before the AO and CIT(A) as the assessee was not in a position to comply the directions, at that time. Hence, he prayed that an opportunity may be given before the AO to canvass the appeal properly. Ld. DR did not have any objection to this proposition. Therefore, in view of the aforesaid facts and circumstances of the case and in

the interest of justice, the issues in dispute are remitted back to the file of the AO with the directions to decide the same afresh, after giving adequate opportunity of being heard to the assessee. We hold and direct accordingly.

5. In the result, the Assessee's appeal is allowed for statistical purposes.

Order pronounced on 16/12/2024.

Sd/-

(YOGESH KUMAR US)  
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