

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, KOLKATA

[Before Shri Rajesh Kumar, AM & Shri Pradip Kumar Choubey, JM]

I.T.A. No. 418/Kol/2025

Assessment Year: 2017-18

Pawan Kumar Choudhary C/o, M/s. Salarpuria Jajodia & Co. 7, C. R. Avenue, 3 rd Floor, Kolkata-700072. (PAN: ACEPC6209K)	Vs.	ITO, Ward-3(3), Bankura
Appellant		Respondent

Date of conclusion of Hearing	13.05.2025
Date of Pronouncement	15.05.2025
For the Appellant	Shri Siddarth Jhajharia, FCA
For the Respondent	Ms. Ranu Biswas, Sr. DR

ORDER

Per Shri Rajesh Kumar, AM

The appeal filed by the assessee is against the order of Ld. CIT(A), NFAC, Delhi dated 31.01.2024 for AY 2017-18 arising out of assessment order passed u/s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the “Act”) by ITO, Ward-3(3), Bankura dated 05.12.2019.

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

1. That on the facts and on the circumstances of the case the order passed by the Learned CIT(A) of the (NFAC), DELHI, is bad in law, illegal, abinitio void and the same is liable to be cancelled / quashed / set-aside.
2. That on the facts and on the circumstances of the case, the Learned CIT(A) of the (NFAC), DELHI, was duty bound to decide the Appeal on merits, even there was no compliance on the part of the Appellant for reasons beyond his control.
3. That on the facts and on the circumstances of the case, the Learned CIT(A) of the (NFAC), DELHI, should have deleted the illegal additions of Rs. 7,02,22,214/- made by the AO, in the assessment framed under section 143(3) dated 5.12.2019, by wrongly considering the figure as amount credited in the bank account and considering the same as turnover instead of the correct figure of Rs. 6,82,99,400/- as reflected in the Bank Statements which were produced before him during the course of the assessment proceedings.
4. That on the facts and on the circumstances of the case, the Learned CIT(A) of the (NFAC), DELHI, should have deleted the higher percentage of 8% of net profit as determined by the AO, in the assessment framed under section 143(3) dated 5.12.2019 and have restricted it to 1% as will be evident from the results of the past previous years.
5. That on the facts and on the circumstances of the case, the Learned CIT(A) of the (NFAC), DELHI, should have deleted, the addition of Rs. 2,40,000/- as determined by the AO, in the assessment framed under section 143(3) dated 5.12.2019 by wrongly and illegally considering the same as unexplained money without placing cognizance on the gift deeds produced before him during the course of the assessment proceedings.
6. The Appellant craves leave to add or alter or amend or rescind the grounds hereinabove and also to adduce to certain documents / evidences in support of its grounds during or before the course of the hearing of the Appeal

3. The Ld. AR of the assessee submitted that the order passed by the ld. CIT(A) is an ex parte order and is a non-speaking order without providing adequate opportunity of being heard to the assessee. Hence, the ld. AR prayed before the Bench to set aside the order of the Ld. CIT(A) and restore the issue to the file of the Assessing Officer for adjudication afresh. Ld. Sr. DR opposed this prayer of the assessee.

4. After hearing the rival submissions and going through the order of the Ld. CIT(A), we find that the Ld. CIT(A) issued seven notices for hearing of the appeal but there was no compliance on the part of the assessee. Since the assessee could not present himself in the appellate proceedings, keeping this in mind and also treating this attitude against the principles of natural justice, we are of the view that the assessee should be granted one more opportunity. This being so, the issue in this appeal is restored to the file of the Ld. CIT(A) for adjudicating afresh after affording adequate opportunity of being heard to the assessee. The assessee is also directed to appear before the Ld. CIT(A) on the date of hearing diligently and without any fail.

5. In the result, appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 15th May, 2025

Sd/-
(Pradip Kumar Choubey)
Judicial Member

Sd/-
(Rajesh Kumar)
Accountant Member

Dated: May, 2025

JD, Sr. PS

Copy of the order forwarded to:

1. Appellant–Shri Pawan Kumar Choudhary.
2. Respondent – ITO, Ward-3(3), Kolkata.
3. CIT(A), NFAC, Delhi
4. Pr. CIT
5. DR, ITAT, Kolkata,
True Copy

By Order

Assistant Registrar
ITAT, Kolkata Bench, Kolkata