

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "A": NEW DELHI  
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT  
AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

**ITA No. 4840/Del/2024  
(Assessment Year: 2019-20)**

Anil Kumar Chauhan, 122, Sanjay Gram, Sector 14, Gurgaon	Vs.	DCIT, Circle-1(1), Gurgaon
(Appellant)		(Respondent)
<b>PAN: AIYPK4960B</b>		

Assessee by :	None
Revenue by:	Shri Ajay Kumar Arora, Sr. DR
Date of Hearing	24/06/2025
Date of pronouncement	27/06/2025

O R D E R

**PER AMITABH SHUKLA, AM**

1. This appeal by assessee is directed against the order of National Faceless Appeal Centre (NFAC), Delhi [for short hereinafter referred to as the "(Ld. NFAC)"] dated 21.08.2024 for Assessment Year 2019-20. The word Act hereinafter in this order shall mean the Income Tax Act, 1961.
2. The Assessee was called absent in this case. The Id DR submitted that the Id AO has made an ex-parte addition in this case while making the addition of Rs. 7,17,35,323/- u/s 68 and u/s 40a(i)(a) of the Act. The Id DR submitted that as per para 3 of AOs order the Assessee had remained non responsive to AOs notices and hence, the assessment was completed on the basis of the material contemporaneously available on records. It was

argued that the Id CIT(A) has rightly dismissed the appeal of the Assessee on the issue of non admission of additional evidences.

3. We have heard rival submissions in the light of the materials available on the record. We have noted that the Assessee had not complied with the notices of the Id AO at the assessment proceedings. However, before the Id CIT(A) the Assessee had requested for admission of additional evidences within the meanings of Rule 46A. The Id CIT(A) referred the matter for submission of a remand report in which the Id AO contested the admission of additional evidences. The Id CIT(A) concurred with the Id AO to conclude that there was no reasonable cause available with the Assessee for non submission of requested evidences before the Id AO and he choose to reject the request for admission of additional evidences under Rule 46A. The Id CIT(A) choose to adjudicate the appeal on merits without considering the evidences produced by the Assessee and partly allowed the Assessee's appeal.

4. We have considered the arguments of the Id CIT(A) given in para 6.4 to 6.7 of his order while rejecting the admission of additional evidences under Rule 46A. It has been noted that the arguments are largely based upon conjectures and surmises and not supported by any demonstrative facts on records. We are conscious that no appellant benefits by non prosecution of his case. We have also noted that the conclusion arrived at Id CIT(A) while adjudicating grounds of appeal raised before him without considering any evidences are void ab initio. In the absence of any evidence and it is the Id AO had made one sided addition. By not admitting

the Assessee `s evidences and confirming the same, the Id CIT(A) has also committed the same irregularity. Adequate opportunity of being heard is natural right of every litigant and cannot be violated under any circumstances.

5. Be that as it may be, we are of the view that the matter qua addition made u/s 68 and 40a(ia) of the Act have not been objectively and comprehensively analyzed by the lower authorities. We are of the view that ends of justice would be met if the assessee is given one last opportunity to present its case and filed supporting evidences before the Ld.AO. The decision to remit it back to the Ld. AO is taken in view of the fact that an Assessing Officer is the fulcrum of assessment proceedings. He possesses the first right and responsibilities to examine facts of a case before arriving at his decision qua determination of taxable income in a particular case. Without prejudice it has also been noted that in this case the Ld. AO did not have adequate opportunities to examine the varied facts seminal therein. We have noted with respectful deference the decision of Hon'ble Apex Court in the case of TIN box 249 ITR 216 on the subject matter. Accordingly, the issue of addition qua unexplained share capital which have been contested by the assessee through its grounds of appeal supra stands remitted back to the Ld. AO for fresh adjudication de novo by passing a speaking order and in accordance with law. To the extent the order of lower authorities on this issue stands set aside. The Ld. AO shall give opportunities of being heard to the assessee and it shall be bounden upon the assessee to comply with the notices issued by the Ld. AO. Any

non-compliance on the part of the assessee can be adversely viewed. The assessee is at liberty to produce all the evidences deemed relevant in support of its claims before the Ld. AO during the readjudication proceedings. Accordingly, all the grounds of appeal raised by the assessee are therefore allowed for statistical purposes.

6. In the result, the appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open court on 27/06/2025.

-Sd/-  
**(MAHAVIR SINGH)**  
**VICE PRESIDENT**

-Sd/-  
**(AMITABH SHUKLA)**  
**ACCOUNTANT MEMBER**

Dated: 27/06/2025  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi