

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 2586/Del/2025
(Assessment Year: 2016-17)

Kapil Hooda HUF, 43, SFS Flats Hasuz Khas Apartments, New Delhi	Vs.	ITO, Delhi
PAN: AAJHK2269N		

Assessee by :	Shri Shiv Kumar Agrawal, CA
Revenue by:	Shri Manoj Kumar, Sr. DR
Date of Hearing	14/08/2025
Date of pronouncement	27/08/2025

ORDER

1. The appeal in ITA No.2586/Del/2025 for AY 2016-17 arises out of the order of the Id. National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. NFAC, in short] in Appeal No. ITBA/NFAC/S/250/2023-24/1058673773(1) dated 12.12.2023 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 dated 21.12.2018 (hereinafter referred to as 'the Act') by ITO, Ward-32(5), Delhi (hereinafter referred to as 'Id. AO').

2. At the outset, I find that the appeal filed by the assessee is delayed by 417 days before me. Considering the reasons reduced in the condonation petition, I am inclined to condone the delay and admit the appeal of the assessee for adjudication.

3. The assessee has raised the following grounds of appeal: –

"Ground No.1: On the facts and in the circumstances of the case, the learned CIT(A) erred on facts & in law in not looking into audit report about the gains of Rs. 16,13,521 from routine trading transactions taken since (which the appellant had already considered the above gains in the P & L a/c) which was culminated in income.

Ground No.2: On the facts and in the circumstances of the case, the learned CIT(A) erred on facts & in law in not looking into the basis of calculating gain/loss on future and option and commodities which was reported in audit report which the appellant had already considered the above gains/loss in the P & 2 La/c which was culminated in income. Further in the recast account, the CIT(A) was not justified for not consideration of security transaction tax (STT) and commodity transaction tax (CTT). It is prayed that the doubly considered gain of Rs. 16,13,521 may kindly be declared to be deleted & STT & CSTT be allowed while computing income.

Ground No.3: That the CIT(A) failed to appreciate that while computing income after recasting the accounts proper opportunity was not granted by the AO & due to circumstances 3 beyond control, assessee could not represent before the CIT(A). It is prayed that the Hon'ble Tribunal may kindly accept assessee's contentions & submission on computation of income after recasting of account by the AO.

Ground No.4: The appellant craves leave to add, amend, alter, modify or substitute any ground at the time or before hearing of appeal."

4. The preliminary issue to be decided in this appeal is as to whether the Learned NFAC was justified in passing an ex parte order in the facts and circumstances of the instant case.

5. I have heard the rival submissions and perused the materials available on record. On perusal of the order of the Id NFAC, I find that the Id NFAC had decided the issue ex parte without adjudicating the issue on merits giving its independent finding. The Learned AR before us stated that the notices were sent in Email to a different mail ID other than that mentioned in Form No. 35. Even the assessment order was framed exparte without securing the presence of the assessee. Hence, in the interest of justice and fairplay, I deem it fit and appropriate to restore this appeal to the file of Id AO for de novo adjudication in accordance with law. Needless to mention the assessee be given reasonable opportunity of being heard. The assessee is directed to cooperate with Id AO for expeditious disposal of the set aside assessment by not taking unwarranted adjournments. Hence, the grounds raised by the assessee are 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 27/08/2025.

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 27/08/2025
A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi