

(2024) 05 ITAT CK 0064

Income Tax Appellate Tribunal (Delhi SMC Bench)**Case No:** Income Tax Appeal No. 596/DEL/2024

Parish Agarwal HUF

APPELLANT

Vs

ITO

RESPONDENT

Date of Decision: May 30, 2024**Acts Referred:**

- Income Tax Act, 1961 - Section 80C, 144, 147, 148

Hon'ble Judges: Shamim Yahya, (AM); Sudhir Pareek, J**Bench:** Division Bench**Advocate:** Dishant Sethi, Sumangla Saxena, Shyam Sunder, Om Parkash**Final Decision:** Allowed**Judgement**

1. By this appeal, Assessee has challenged the order passed by National Faceless Appeal Centre (hereinafter referred to as 'NFAC') dated 29.12.2023 by which Learned CIT(A) while deciding the appeal filed by him, upheld the action of Assessing Officer (hereinafter referred to as 'AO').

2. Facts of this case may be summarized as that the Appellant HUF filed its return of income declaring total income of Rs. 67,066/- on 17.01.2013 for AY 2013-14. The case was reopened and notice U/s 148 was issued on 27.03.2021 and after completion of the assessment U/s 144 r/w 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), assessing total income at Rs. 28,70,120/-. Thereafter, assessee, filed appeal before the Leaned Commissioner of Income Tax (Appeals) [hereinafter referred to as (Ld. CIT(A)]], and Ld. CIT(A) dismissed the appeal and upheld assessment as above by stating that appellant has failed to submit any documents / proofs/ evidences in support of his claim and arguments. Being aggrieved, present appeal before us.

3. Assessee / Appellant submitted substantive grounds of appeal before us as follows:

"1. That the Ld. CIT(A), NFAC has erred in law as well as on facts in upholding the order of Ld. AO and not allowing the credit of taxes paid to the tune of Rs. 8,93,921/-, despite the fact that taxes paid was reflected in ITR acknowledgement and Form 26AS, as well.

2. That the Ld. CIT(A), NFAC has erred in law as well as on facts in upholding the order of Ld. AO wherein the disputed tax demand of Rs. 9,18,673/- was created despite the fact that Return filed u/s 148 of the Act was accepted and no addition or disallowance was made in the assessment order passed u/s 147.

3. That the Ld. CIT(A), NFAC has erred in law as well as on facts in upholding the order of Ld. AO and not allowing the deduction u/s 80C of the Act of Rs. 1,00,000/- for the LIC Premium paid, which assessee could not be claim while filing the return of income.

4. That the Ld. CIT(A) has erred in law as well as facts in not providing the reasonable and sufficient opportunity of being heard while disposing the appeal of the assessee.

5. The above grounds of appeals are independent of, and without prejudice to each other. That the appellant craves leave to add, alter, amend or withdraw all or any grounds herein or add any further grounds as may be considered necessary either before or during the hearing of these grounds.

4. Heard rival submissions and carefully perused the materials on record for disposal of this appeal.

5. Ld. AR submitted that Ld. CIT(A) not provided reasonable and sufficient opportunity of being heard and dismissed appeal in non-submission of supporting evidence.

6. Per contra, Learned Departmental Representative (hereinafter referred to as 'Ld. DR'), relied upon the order passed by lower authorities by stating that there is no substance in present appeal and ample opportunities been afforded to assessee / appellant.

7. It has been submitted on behalf of assessee / appellant that in the response to notice dated 26.11.2021 and 21.02.2022 , he submitted reply alongwith supportive documents /evidence but Ld. AO did not considered it while passing order dated 30.03.2022. Even Ld. CIT(A) did not take notice of such a important fact that Ld. AO specifically admitted in his order dated 30.03.2022, that in response of the notice served, assessee submitted documents online on 24.02.2022 and disposed of appeal pending with him by stating simply that despite several opportunities, appellant / assessee failed to submit documents / proofs/ evidences in support of his claim and arguments.

8. Bare perusal of orders passed by lower authorities and also materials placed before us, it explicitly reveals that both the lower authorities did not provide effective, fair and adequate opportunity to assessee while disposing the matter pending before them. The assessee / appellant was deprived of proper opportunity of being heard in accordance with law.

9. In our humble opinion, object of law is to ensure substantive justice and Rule of Law are just to handmaid to administration of justice. Discussion and observations as hereinbefore enables us to reach this conclusion that the object of justice will fulfilled if one more opportunity may provide to assessee / appellant in order to resolve the dispute thoroughly.

10. Upon hearing both the parties, and overall circumstances, without discussing on merits of the case, matter is remitted back to the Ld. CIT(A) with the direction to afford meaningful and effective opportunity in accordance with law to the assessee/ appellant and decide afresh. The assessee / appellant shall co-operate in the proceeding for expeditious disposal before Ld. CIT(A) with providing all material / document / evidence in support of his claim and will not seek unnecessary adjournments.

11. Consequently, this appeal is allowed as indicated above for statistical purpose