

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'E', NEW DELHI****BEFORE SH.SUDHIR KUMAR, JUDICIAL MEMBER  
AND  
SH. MANISH AGARWAL, ACCOUNTANT MEMBER**ITA No.4883/Del/2024

Assessment Year: 2016-17

<b>Mehinder Sharma, E-156 Greater Kailash Part-1, new Delhi , 110048 PAN NO.AAKPS7142R</b>	<b>Vs.</b>	<b>Assistant Commissioner of Income Tax Circle 61(1) Delhi</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	<b>Sh. Sanjay Agarwal, CA Sh. Sumaksh Mahajan, CA</b>
Respondent by	<b>Sh. Dheeraj Kumar Jain, Sr. DR</b>

Date of hearing:	25/06/2025
Date of Pronouncement:	25/06/2025

**ORDER****PER SUDHIR KUMAR, JM:**

This appeal by the assessee is directed against the order of the National Faceless Appeals Centre Delhi [hereinafter referred to as "NFAC"] vide order dated 22.08.2024 pertaining to A.Y. 2016-17 pertaining to arises out of the assessment order

dated 14.12.2018 under section 143(3) of the Income Tax Act, 1961 [hereinafter referred as 'the Act'].

2. The assessee has raised following grounds of appeal:

*1. That the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred as Ld. CIT(A)) has erred in law and facts of the matter by confirming the assessment order without appreciating the fact of the matter and submissions filed by the appellant before Ld. AO during the course of impugned assessment proceeding and also, in pure contravention of principle of natural justice. Thereby, impugned order passed by Ld. CIT(A) is bad in law and deserves to be quashed.*

*2 That Ld. CIT(A) has erred in law and facts of the case while confirming additions of Rs. 1,00,00,000/- made by the Ld. AO u/s 68 of the Income Tax Act, 1961 (hereinafter referred as 'the Act') on account of unsecured loan received from M/s Encore Infra Advisory as alleged unexplained cash credit merely under impression that said party is not responding to enquiry notice issued without appreciating the submission already available on record. As such, impugned additions confirmed by the Ld. CIT(A) deserves to be deleted.*

3. That the Ld. CIT(A) has erred in facts of the case while upholding the addition of Rs. 3,71,29,759/- made under the Head Capital Gain without appreciating the fact that the Ld. AO had not appreciated the facts of the matter appropriately being the appellant assessee was not the actual owner of property under consideration during the period under consideration but the actual owner was M/s. ANS Constructions Pvt. Ltd. and said had already declared such income in its ITR furnished for the period under consideration. As such, impugned additions confirmed by the ld. CIT(A) deserves to be deleted.

4. 4 That the CIT(A) has erred in both law and facts of the case while upholding the addition of Rs. 3,71,29,759/- made under the Head Capital Gain without appreciating the fact that the appellant had duly brought on record the fact that the transfer of property under consideration from proprietorship concern to M/s. ANS Constructions Pvt. Ltd. was exempted from being considered as 'Transfer' in terms of Section 47(xiv) of the act whereas, Capital Gain only arise in the hands of said company in the year of actual transfer i.e. during the period under consideration. As

*such, impugned additions confirmed by the Ld. CIT (A) deserves to be deleted.*

*5. That the appellant craves right to amend, add, delete or withdrawing any of the Ground of Appeal during the course of hearing.*

3. The brief facts of the case are that the assessee is a technical consultant by profession and filed his return of income for A.Y. 2016-17 on 30-03-2017 declaring a total income of Rs. 4,55,07,320/-. The case was selected for limited scrutiny through CASS and notice u/s 143(2) of the Act was served on the assessee. After considering the reply submitted by the assessee the AO has completed the assessment after making the addition of Rs.4,71,29,759/-and penalty proceedings u/s 271(1) (c) of the Act also initiated.

4. Aggrieved the order of the Ld.AO the assessee preferred the appeal before the Ld. NFAC who vide order dated 22-08-2024 dismissed the appeal in non -compliance. Being aggrieved the order of the Ld. NFAC the assessee filed this appeal before the Tribunal.

5. The Ld. Counsel for assessee has submitted that Ld. NFAC should have decided the appeal on merit. He also submitted that

sufficient opportunity of being heard was not provided by the authority.

6. Learned authorized representative for Department of Revenue submitted that departmental authorities have passed reasoned orders. He also submitted that the assessee has taken part in the proceedings but not submitted his submission before the Ld. NFAC.

7. We have heard the parties and perused the material available on record. It is an admitted fact that despite opportunities granted by Ld. NFAC the assessee did not file his submissions before the authority, for which the appeal was dismissed in non-compliance by the NFAC.

8. Since in the instant case the Ld. NFAC has dismissed the appeal in non-compliance therefore, considering the totality of the facts and circumstances of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Ld. NFAC with a direction to grant one final opportunity to the assessee to substantiate its claim and decide the issue as per fact and law. The assessee is also directed to appear before the Ld. NFAC and co-operate in the proceedings. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open court on 25.06.2025

**Sd/-**  
**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

\*NEHA, Sr. PS\*

Date:-25.06.2025

Copy forwarded to:

1.Appellant

2.Respondent

3.CIT

4.CIT(Appeals)

5.DR: ITAT

**Sd/-**  
**(SUDHIR KUMAR)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI