

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Shri B.R. Baskaran (AM)

I.T.A. No. 630/Mum/2022 (A.Y. 2011-12)

Smt. Juri H. Mehanta Ward 51, 24, Zakir Hussain Path, Guwahati Assam-781 036. PAN : AYQPM6031M (Appellant)	Vs.	ITO, Range- 30(1)(5) Mumbai. (Respondent)
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Assessee by	None
Department by	Ms. Naina Krishnakumar
Date of Hearing	19.07.2022
Date of Pronouncement	19.07.2022

ORDER

The assessee has filed this appeal challenging the order dated 9.5.2019 passed by learned CIT(A)-41, Mumbai and it relates to A.Y. 2011-12. The only issue urged in this appeal relates to addition of Rs. 15,86,000/-, being alleged on-money payment made by the assessee to a builder.

2. None appeared on behalf of the assessee, even though notice was sent by the registered post on earlier occasion. Hence, I proceed to dispose of the appeal ex-parte, without presence of the assessee.

3. The Assessing Officer had got information that the builder Shri Nilesh Gawde and Mahendra Rawal had maintained a record in their pen drive which contain details of payment of on-money to the extent of Rs.15,86,000/- by the assessee to the above said builder. Hence the assessment of the year under consideration was reopened under section 147 of the Act, as the assessee had not filed return of income under section 139(1) of the Act. However, the Assessing Officer was constrained to pass the order to best of his judgement under section 144 of the Act, since the assessee did not respond to the notices

issued by the Assessing Officer. Hence, the Assessing Officer assessed the above said amount of Rs.15,86,000/- as income of the assessee.

4. Before learned CIT(A) also, the assessee did not appear and hence learned CIT(A) dismissed the appeal of the assessee for non-prosecution on the part of the assessee.

5. Aggrieved, the assessee has filed this appeal before the Tribunal.

6. The appeal is barred by the limitation by 1000 days. The assessee has filed a petition stating that she is suffering from breast cancer and undergoing treatment. The assessee has also filed copies of the medical reports. I have heard learned DR on this preliminary issue. Having regard to the submissions made by the assessee, I condone the delay and admit the appeal for hearing.

7. I noticed that the assessee is suffering from breast cancer problem and that could be the reason for not appearing before the tax authorities. Since learned CIT(A) has passed the order ex-parte, in the interest of natural justice and also in view of the fact that the Ld CIT(A) has not adjudicated issues on merits, I am of the view that all the issues urged by the assessee should be restored to the file of learned CIT(A). Accordingly, I set aside the order passed by learned CIT(A) and restore all the issues to his file for adjudicating them afresh in accordance with law, after affording adequate opportunity of being heard to the assessee.

8. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 19.07.2022.

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 19/07/2022

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

PS

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai