

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JM, &
SHRI OM PRAKASH KANT, AM**

आयकरअपीलसं./ I.T.A. No. 1443/Mum/2022
(निर्धारणवर्ष / Assessment Year: 2011-12)

Baburao Shivram Jagdankar LG 148/3/3 Sunderbaug Lane, Indira Nagar, Kurla, Mumbai-400 070	बनाम/ Vs.	ITO Ward 26(1)(2), Prayakshkar Bhavan, C-11, Bandra Kurla Complex, Bandra (East), Mumbai-400 051
स्थायीलेखासं ./जीआइआरसं ./PAN No. AGEPJ7002P		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Aditya Ramchandran, Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri Mahita Nair, Ld. DR
सुनवाईकीतारीख/ Date of Hearing	:	08.09.2022
घोषणाकीतारीख / Date of Pronouncement	:	08.09.2022

आदेश / O R D E R

Per Amit Shukla, Judicial Member:

The aforesaid appeal has been filed by the assessee against the impugned order dated 29.03.2022, passed by National Faceless Appeal Centre (NFAC), Delhi for the quantum of assessment passed

u/s 144 for AY 2011-12. Assessee has raised the following grounds:-

1. On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) erred in deciding the appeal on the basis that no submission has been filed by the appellant without appreciating the fact that not only the appellant had filed the submission along with the additional evidences but also the additional evidences were sent to the Assessing Officer requiring him to submit the remand report.

2. On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) ought to have considered the written submission filed by the appellant, the additional evidences submitted and the remand report of the Assessing Officer while deciding the appeal.

3. On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) erred in confirming the addition of 51,00,000 towards sale of immovable property.

2. At the outset, Ld. Counsel for the assessee submitted that, in this case already physical hearing was going on and assessee had filed various additional evidences for which remand report was called for from the AO. However, in the mean time, the case was

transferred to NFAC who has passed ex-parte order holding that assessee has failed for offer any explanation despite several opportunities. He further submitted that the matter should be remanded back to the First Appellate Authority to decide afresh after considering the additional evidences and the remand report of the AO and the copy of which should be provided to the assessee.

3. On the other hand, Ld. DR admitted that matter should be restored back to the First Appellate Authority for deciding afresh.

4. In view of the aforesaid fact that already before the erstwhile CIT (A), assessee had filed the various documents in the form of additional evidences and submissions on which remand report was called for. Subsequently, the matter was transferred to NFAC and since assessee could not respond to the e-mail notice, the order has been passed ex-parte. Under these circumstances, we are remitting back this issue to the file of First Appellate Authority to decide this issue afresh and consider all the evidences filed by the assessee and also provide copy of remand report after giving due and effective opportunity of hearing to the assessee

5. In the result, the appeal filed by the assessee is **allowed for statistical purposes.**

Orders pronounced in the open court on 8th September, 2022.

Sd/-
(Om Prakash Kant)
Accountant Member

Sd/-
(Amit Shukla)
Judicial Member

मुंबई Mumbai;दिनांक Dated : 08.09.2022
Sr.PS. Dhananjay

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./ Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai