

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

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER &
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No. 664/Mum/2023
(A.Y.2012-13)**

Subramanian V. Mellarcode C-2604, Tirumala Habitate, Balrajeshwar Road, Mulund West, Mumbai – 400019	Vs.	CIT (A) NFAC Delhi
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: ABCPM2751M		
Appellant	..	Respondent

Appellant by :	Rahul Parekh
Respondent by :	Ajay Singh

Date of Hearing	10.05.2023
Date of Pronouncement	12.05.2023

आदेश / O R D E R

Per Amarjit Singh (AM):

The present appeal filed by the assessee is directed against the order passed by the NFAC, Delhi dated 06.01.2023 for A.Y. 2012-13.

2. Fact in brief is that the A.O has noticed from the NMS module system that assessee has made investment in the immovable property at Rs.1,02,68,000/-. The assessing officer stated that during the course of assessment the assessee has failed to make any submission in spite of notices issued to explain the source of investment made in the immovable property. Therefore, the A.O has completed the assessment ex-parte u/s 144 r.w.s 147 of the Act and added the total amount of

Rs.1,02,68,000/- invested in the immovable property u/s 69 of the Act to the total income of assessee.

3. Aggrieved, the assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) has dismissed the appeal of the assessee for want of non-compliance to the notices issued during the course of appellate proceedings.

4. During the course of appellate proceedings the ld. Counsel filed paper book and submitted that order u/s 144 of the Act was completed without serving of notices upon the assessee. The ld. Counsel further submitted that during the course of appellate proceedings before the ld. CIT(A) the compliance could not be made because the assessee was expired during the course of appellate proceedings.

On the other hand, ld. D.R supported the order of the assessing officer.

5. Heard the rival contention and perused the material on record. The ld. CIT(A) has not adjudicated the issue on merit but the appeal was dismissed for want of non-compliance. Regarding not making compliance before the lower authorities, the ld. Counsel submitted that during the course of assessment proceedings before the AO, no notice of hearing was served upon the assessee. Thereafter at the time of appellate proceedings before the ld. CIT(A) the assessee was expired on 18.11.2002 before the completion of appellate proceedings and the ld. CIT(A) has passed the appeal order on 06.01.2023.

6. After considering the above facts and circumstances we have also perused the provision of Sec. 250(6) of the Act which contemplates that the ld. CIT(A) would determine the point in dispute and record reason of such point in support of his conclusion for adjudicating the issue in appeal on merit. However, the ld. CIT(A) has dismissed the appeal for

want of non-prosecution. Therefore, we restore this case to the file of Id. CIT(A) for adjudicating afresh on merit as contemplated u/s 250(6) of the Act after giving more opportunity to the assessee. Accordingly, the appeal of the assessee is allowed for statistical purposes.

7. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 12.05.2023

Sd/-
(Kuldip Singh)
Judicial Member

Sd/-
(Amarjit Singh)
Accountant Member

Place: Mumbai

Date 12.05.2023

Rohit: PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.