

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'F': NEW DELHI  
BEFORE,  
SHRI G. S. PANNU, PRESIDENT  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER  
ITA No.4681/Del/2018  
(ASSESSMENT YEAR 2013-14)**

Vipin Gupta 173, Site-II, Vikaspuri, Delhi <b>PAN- AMWPG8383L</b> <b>(Appellant)</b>	Vs.	ITO, Ward-45(5) New Delhi <b>(Respondent)</b>
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Appellant by	Sh. None
Respondent by	Sh. Vivek Vardhan, Sr. DR

Date of Hearing	21/08/2023
Date of Pronouncement	11/09/2023

**ORDER**

**PER YOGESH KUMAR U.S., JM:**

This appeal filed by the assessee is against the order of Learned Commissioner of Income Tax (Appeals), Delhi ["Ld. CIT(A)", for short], dated 24/06/2017 for Assessment Year 2013-14.

2. The grounds of Appeal are as under:-

1. *"On addition of Rs.4,50,00,000, it is hereby submitted that the above amount was advance against the property. The same was explained during the original assessment also.*
2. *The addition of Rs.54,60,560 has been explained to having used for the purchase of property. The details has already been provided. The AO himself could not substantiate the utilization of the funds for property purchase. This was unjust*

*addition. There is no co-relation of the Property purchased and Loan utilized. This is evident even from the books of Accounts.*

*3. The addition of Rs.419440 on account of the notional rent is unjust. Already explained, these properties were not habitable. There can be no rent if the property is not habitable.”*

3. None appeared for the assessee. Right from filing of the Appeal, the assessee remained absent on all the hearing dates, the notices have been repeatedly issued by the registry to the registered address of the assessee which have been returned with an endorsement 'no such person'. Considering the above facts, we are constrained to decide the Appeal by going through the material available on record and on hearing the Ld. Departmental Representative.

4. There is a delay of 99 days in filing the present Appeal and an application is filed for condonation of delay in filing the Appeal on the ground that the assessee had been suffering from depression from past three years, therefore, the Appeal could not be filed on time. Considering the reasons assigned in the Application/letter of the assessee dated 21/03/2018, the delay in filing the present appeal is condoned.

5. Brief facts of the case are that, the return for the Assessment Year 2013-14 was filed by the assessee declaring the total income of Rs. 12,89,600/- which was processed u/s 143(1) of the Act on income returned by the assessee. The case was selected for scrutiny and an assessment order u/s

143(3) of the Act came to be passed on 10/03/2016 by assessing the total income of the assessee at Rs. 5,21,69,600/- wherein disallowed the claim of interest paid of Rs. 54,60,560/-, made addition of forfeiture of advance amount of Rs. 4,50,00,000/- u/s 68 of the Act, further made addition of Rs. 4,19,440/- as rental income from house property. Aggrieved by the assessment order, dated 10/03/2016, the assessee preferred an appeal before the CIT(A). The Ld. CIT(A) vide order dated 24/06/2017, dismissed the Appeal filed by the assessee. Aggrieved by the order of the CIT(A), the assessee preferred the present Appeal on the grounds mentioned above.

6. Ground No. 1 is regarding sustaining the addition of Rs. 4,50,00,000/- on account of forfeiture of advance. As per the grounds of Appeal, the assessee claimed that the said amount was advance against the property and the same has been explained to the A.O. during the original assessment. The Ld. Departmental Representative submitted that the assessee has not substantiated the necessary details in support of the contention that the said amount is a forfeiture of advance before the Lower Authorities and by relying on the order of the assessment order and the order of the CIT(A) submitted that the Ground No. 1 deserves to be dismissed.

7. We have heard the Ld. Departmental Representative and perused the material available on record.

8. The Ld. CIT(A) while dealing the above issue called for the Remand Report from the A.O. and also found that the assessee had not submitted

details regarding claim of Rs. 4,50,00,000/- being the amount shown as forfeiture of advance, therefore, decided against the assessee in following manners:-

*“After receipt of remand report the appellant was again issued notices dated 28.02.2017, 14.03.2017 and 25.05.2017. None of these notices were attended by the AR/appellant nor any request for adjournment was made to this office. In the remand report AO has submitted that during the course of assessment proceedings assessee was given sufficient no of opportunities for filing necessary details and for giving his submissions. It is seen from the assessment order that assessee was issued notice u/s 143(2) of the Act dated 04.09.2014 thereafter another notice u/s 142(1) of the Act issued on 16.10.2015 and further notice was Issued on 02.11.2015. Though AR of the appellant attended before AO, however he failed to provide necessary details. It is noted that there has been non-compliance not only during the course of assessment proceedings but also during the course of remand proceedings before the AO and during the course of appellate proceedings. The details filed during the course of appellate proceedings are not only insufficient but appellant has given no reasons as to why these details were not submitted before the AO. In the light of the above and considering the conduct of the appellant and there being no justification as to why the necessary details/documents were not submitted before the AO, I hold that appellant's case is not covered by any of the clauses specified under Sub-rule 1 of rule 46A of the I. T. Rules, 1962. The additional evidence filed by the appellant during the course of appellate proceedings is therefore not admitted, least to say that even these are insufficient and moreover no details/submissions are filed with regard to the addition of*

*Rs.4,50,00,000/-being the amount shown as forfeiture of advance.  
In view of the above I hold that no interference is required in respect  
of addition of Rs.4,50,00,000/- made by the AO in the assessment  
order.”*

9. Since, the assessee has not substantiated the claim of forfeiture of advance by producing the documentary evidence, we are of the opinion that the Lower Authorities have committed no error in disallowing the same. Thus, we find no merit in Ground No. 1 of the assessee, accordingly Ground No. 1 of the assessee is dismissed.

10. The Ground No. 2 is regarding disallowance of interest of Rs. 54,60,560/- on loan. The Ld. Departmental Representative submitted that the assessee had not substantiated with the necessary supporting documents to prove that the loans were utilized for the business purpose, therefore, the addition made by the A.O. which was sustained by the CIT(A) requires no interference and submitted that the Ground No. 2 of the Assessee sans merit which deserves to be dismissed.

11. We have the Ld. Departmental Representative and perused the material. During the assessment proceedings, the A.O. observed that the assessee had paid interest amount of Rs. 54,60,560/- on the secured loan availed by the assessee and utilized the amount of loan for the purpose of investment of properties. The A.O. found that the secured loan taken by the assessee has not been utilized for the business activities and the same has been diverted for

the purpose of purchase of properties which is not related to business activities. During the appellate proceedings before the CIT(A), the assessee could not substantiate his claim with necessary supporting documents to prove that the loans were utilized for the business, therefore, in our opinion, the CIT(A) committed no error in confirming the said addition, accordingly we dismiss the Ground No. 2 of the assessee.

12. Ground No. 3 is regarding addition on account of notional rent of Rs. 4,19,440/-. The Ld. Departmental Representative relied on the orders of the Lower Authorities and prayed for dismissal of Ground No. 3.

13. During the course of the assessment proceedings, it was noticed by the A.O. that the assessee had declared income from house property of Rs. 3,86,400/- during the year under consideration. The A.O. asked the Assessee to furnish the details of rental properties. The assessee contended that *'deemed rental income of Rs. 3,86,400/- was computed during the previous year and none of the properties on which deemed rent has been charged is in a position to be let out, there are due multiple wear and tear in the property, due to poor maintenance and multiple wear and tear the market value of the rental is practically NIL'*. Thus, the assessee requested before the A.O. to apply best judgment and sought for reduction of notional rent value to 'Zero'. The Ld. A.O. without satisfying with the contentions of the Assessee, estimated notional rent as under:-

	Particulars	Status	Rent received in A.Y 2012-13	Notional Rent estimated in A.Y 2013-14
1	173, Site-II Vikaspuri, New Delhi	Self Occupied	NIL	NIL
2	Amar Market, Chandni Chowk,	let out	6,00,000/-	6,00,000/-
3	Property at Gandhi Nagar			
4	Property at Janta Colony, Basai Darapur			
5	Property at Karala	Vacant	1,76,000/-	1,93,600/-
6	WZ-100 D/1, Sant Garh, Rent as shown in ITR for 2010-11			
7	Rishi Nagar, Rani Bagh	Vacant	1,20,000/-	1,32,000/-
8	Plot at Dhansa board	Vacant	NIL	NIL

Accordingly, deemed rent from the properties as calculated below is added to the income of the assessee.

Deemed Rent from house property	9,85,600/-
Less: Rent already offered for tax	3,86,400/-
Net deemed rent	5,99,200
Less: Deduction u/s 24(a)	1,79,760/-
Rental Income	4,19,440/-”

14. Considering the fact that the assessee had not produced relevant details/documents before the A.O. or before the CIT(A), or substantiated the claim, we find no error or infirmity in increasing the notional rent by 10% as compare to rent received in the Assessment Year 2012-13 which is just and reasonable. Thus, we find no merit in the Ground No. 3 of the assessee. Accordingly, we dismiss the Ground No. 3 of the assessee.

15. In the result, the Appeal filed by the assessee is dismissed.

Order pronounced in open Court on 11<sup>th</sup> September, 2023

Sd/-

**(G. S. PANNU)**  
**PRESIDENT**

Dated: 11/09/2023  
R.N, Sr ps

Sd/-

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI