

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'C', KOLKATA

**BEFORE SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, HON'BLE ACCOUNTANT MEMBER**

**ITA No.783/KOL/2022
Assessment Year: 2013-14**

Prosanto Saha 60-A, Chakarberia Road (North), Bhawanipur, Kolkata-700020. PAN: ASRPS 2174 A (Appellant)	Vs.	ITO, Ward-11(3), Kolkata (Respondent)
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Present for:

Appellant by : Shri Amit Agarwal, Advocate
Respondent by : Shri Kallol Mistry, JCIT, Sr. DR

Date of Hearing : 06.09.2023
Date of Pronouncement : 08.09.2023

ORDER

PER SONJOY SARMA, JM:

This appeal of the assessee for the assessment year 2013-14 is directed against the order dated 20.07.2023 passed by the Id. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the 'Id. CIT(A)']. The assessee has raised the following grounds of appeal:

- 1. That the learned Commissioner of Income Tax (Appeals)/ NFAC was not justified in disposing off the appeal filed by the Appellant without providing adequate opportunity of hearing when adjournment application was filed and the appeal was instituted only on 26-03-2022 and the said appeal was disposed in a hurried manner on 20-07-2022, within a span of little over one hundred days.*
- 2. That the learned Commissioner of Income Tax (Appeals) / NFAC was not justified in disposing off the appeal filed by the Appellant without providing adequate opportunity of hearing when the assessment had been completed on the basis of disputed valuations of the properties under consideration in a situation where valuation report was not received from the District Valuation Officer (DVO) in respect of one of the properties sold during the assessment year under consideration.*
- 3. That the learned Commissioner of Income Tax (Appeals)/ NFAC was not justified in considering the valuation of the property at Rs 18,07,26,190/- and thereby computing the taxable long term capital gain at Rs 1,34,32,581/-*

without taking into consideration the fact that the market value of the property is far less than the value adopted for the purpose of taxation and the valuation done by the Registered valuer of the assessee has not been given any cognizance.

4. That the actions of the National Faceless Appeal Centre as well as the National Faceless Appeal Centre is, otherwise, perverse and violates the principles of natural justice.

5. The appellant craves leave to add, alter or abandon one or more grounds of appeal in the course of hearing of the appeal by the Hon'ble Bench."

2. At the outset, we find that there is a delay of 101 days in filing of the appeal by the assessee. We after perusing the petition for condonation of delay are convinced that the assessee was prevented by sufficient cause from filing the appeal in time and hence delay is condoned and appeal is admitted.

3. Though the assessee has raised several grounds of appeal contesting various disallowances and additions made by the AO which was sustained by the ld. CIT(A) while passing the impugned order.. On perusal of facts of the case, we find that the ld. AR of the assessee raised a primary ground by stating that the ld. CIT(A) has passed an ex-parte order without granting sufficient opportunity to the assessee and on going through the impugned order, we also noticed that fair opportunity was indeed given to the assessee for representation of the case which was not complied by the assessee. The ld. AR prayed before us to give one more opportunity to appear before ld. CIT(A) in order to contest the instant matter properly. The ld. AR also assured that he will not take any adjournment before the ld. CIT(A) anymore and would cooperate in order to pass an effective order. We find that the instant impugned order passed by ld. CIT(A) is an ex-parte order and this is a fit case for remanding the appeal before the ld. CIT(A) in order to give one more effective opportunity to

the assessee and doing so we are hereby directed the assessee to cooperate with the Id. CIT(A) in order to expeditious disposal of the matter by not seeking any adjournment except due to the exceptional and unavoidable circumstances. In view of the foregoing paragraph, the various grounds raised by the assessee gf on merits are left open and we remand back the whole issue to the file of Id. CIT(A) for de novo adjudication.

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

Order pronounced in the open court on 08.09.2023

Sd/-

**(GIRISH AGRAWAL)
ACCOUNTANT MEMBER**

Sd/-

**(SONJOY SARMA)
JUDICIAL MEMBER**

Kolkata, Dated: 08.09.2023
Biswajit, Sr. P.S.

Copy to:

1. The Appellant: Prosanto Saha.
2. The Respondent: ITO, Ward-11(3), Kolkata.
3. The CIT,
4. The CIT (A)
5. The DR

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata