

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JABALPUR BENCH, JABALPUR**

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No.93/Jab/2022  
(ASSESSMENT YEAR- 2013- 2014)**

Basant Grover, 245/2, Behind Ashoka Apartment, Madanmahal, Jabalpur-482002 (M.P.)	vs	ITO, Ward-2(3), Jabalpur.
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN No. ADBPG3734F</b>		

<b>Assessee By</b>	None
<b>Revenue By</b>	Shri Rajesh Kumar Gupta, Sr.DR
<b>Date of hearing</b>	13/09/2023
<b>Date of Pronouncement</b>	20/09/2023

**ORDER**

**PER OM PRAKASH KANT, A.M.:**

The appeal by the assessee is directed against order dated 08.08.2022 passed by Ld. Commissioner of Income Tax(Appeals)-National Faceless Appeal Centre, Delhi [in short "Ld.CIT(A)"] for assessment year 2013-14, raising following grounds:

1. *"That, on the facts and in the circumstances of the case the assessment order passed on 08/08/2022 under section 250 of the Income Tax Act, 1961 is illegal and bad in law being ex-parte, thus violating the "principle of natural justice", by not giving proper opportunity to the assessee; who was bedridden due to heart problem and*

*was thus prevented in giving replies to the notices which is a reasonable cause.*

- 2. That, the Ld, CIT(A) erred in confirming addition of Rs.25.109/-on account of low house-hold expenses, being arbitrary and unjustified.*
- 3. That, the Ld.CIT (A) erred in confirming addition towards disallowance of Rs.10,000/- on account of expenses claimed in the Profit & Loss Account, being arbitrary and not justified.*
- 4. Considering the fact, that, Long term Capital Gain of Rs. 12,55,692/-(infra) is calculated after taking the Sale consideration of Rs.22,11,000/- instead of Rs. 15,98,000/; the Ld. CIT(A), NFAC erred in confirming addition of Rs.6, 13,000/- vide Para 5.2 of the order invoking Sec 68 and initiating Penalty proceedings u/s 271(1)(c). The capital gain since already calculated in excess with Rs. 6,13,000/-,and adding the same again u/s 68, would be taking same income twice; hence unjustified and bad in law.*
- 5. Under the facts and circumstances of the case, Ld. Rs 12,55,692 CIT(A) NFAC erred in confirming addition of Long Term Capital Gain, firstly by taking cost of acquisition of Land only instead to include the cost of building thereto and Secondly by disallowing the exemption u/s 54 of the IT Act, despite the Assessee having purchased another Residential house within one year before the sale of old house as evident from the deed dated 14/12/2011 and the conditions of Sec 54 since complied, hence denying exemption is unjustified.*

6. *That, the Ld. CIT(A) erred in not making any reference to the Ground of Appeal No.3 relating to addition of Long term capital gain by disallowing exemption u/s 54, though mentioned in para 5.2 of the order(Supra).*
7. *That, the impugned order being contrary to law, material on record and facts of the case may kindly be set aside, amended and modified in the light of grounds of appeal enumerated above and the appellant be granted such relief as called for on the facts and in the circumstances of the case of the appellant and in law.*
8. *That, each of the grounds of appeal enumerated above is without prejudice to each other and independent of one another.”*

2. Despite notifying, neither anyone attended on behalf of the assessee nor was any adjournment sought. Therefore, the appeal is decided *ex-parte* after taking into consideration the arguments of the Ld. Departmental Representative (DR) for the Revenue.

3. Briefly stated facts of the case are that the assessee filed return of income on 07.03.2014, declaring total income of Rs.45,420/-. The return of income filed by the assessee was selected for scrutiny assessment and statutory notices u/s Income Tax Act, 1961 (in short “the Act”) were issued and complied with. The assessee is a proprietor of M/s. Grover Electricals, engaged in the business of purchase and sale of electrical goods. In the trading account, the assessee has shown total sales of

Rs.1,39,37,718/- and shown gross profit thereon at Rs.8,70,018/- which results in a gross profit rate of 6.24% as against gross profit rate of 5.54% declared in the last year. However, net profit rate of the assessee declined to 2.19% as compared to 2.70% for the last year. The books of accounts, vouchers produced by the assessee were examined by the Assessing Officer (in short "AO") and after examination, the AO noted that some of the expenses were not supported by bills/vouchers and therefore, he made lumpsum disallowance of Rs.10,000/- and added to the income of the assessee. Further, the AO noted that against household expenses, the assessee shown withdrawal of Rs.1,18,891/-. The AO noted that the assessee's family consists of self, wife and one son and looking to his social status, he estimated the withdrawal at Rs.12,000/- per month, totalling to Rs.1,44,000/ and in this manner, made addition of Rs.25,109/- [Rs.1,44,000/- (-) Rs.1,18,891/-] for low withdrawals for household expenses. The AO further rejected the computation of Long Term Capital Gain (in short "LTCG") partly and made addition of Rs.6,13,000/- as an unexplained credit.

4. Aggrieved, the assessee preferred appeal before Ld.CIT(A). Ld.CIT(A) in the impugned order has noted that various notices

issued through Income Tax portal on 15.01.2021, 25.08.2021 and 01.09.2021, were remained uncompiled on behalf of the assessee.

5. Aggrieved assessee is in appeal before this Tribunal, raising the grounds as reproduced herein above.

6. We have heard the contention of Ld. Sr.DR on behalf of the Revenue on the issue in dispute and perused the material available on record. We take note that the assessee has fully cooperated with the Assessing Officer (AO) by providing the requisite books of accounts and vouchers. It is worth highlighting that the AO, in disallowing certain expenses, resorted to an ad-hoc basis without specifying any particular deficiencies in the vouchers. Similarly, the AO has estimated household expenses purely on ad-hoc basis without any evidence regarding the estimation of expenses for the assessee and therefore, we feel appropriate to delete both the additions of Rs.10,000/- and Rs.25,109/- respectively. The Ground Nos. 2 & 3 raised by the assessee are accordingly, allowed.

7. Ground Nos. 4 to 6 raised by the assessee relate to the computation of LTCG of addition of Rs.6,13,000/-.

8. We have noted above that the assessee has remained non-complied before Ld.CIT(A). We take cognizance of the fact that the assessee's non-compliance may be attributed to potential

infrastructural challenges or a lack of familiarity with computer technology, given the rural background of the assessee. In our opinion, there is a reasonable and sufficient cause for failure on the part of the assessee in complying the notice issued by Ld.CIT(A). Therefore, we feel appropriate to restore the Ground Nos. 4 to 6 raised by the assessee back to the file to Ld.CIT(A) for deciding afresh after taking into consideration the submissions of the assessee. In the case of non-service of notice through Income Tax portal, Ld.CIT(A) may make attempt of service of notice through other modes provided under the Income Tax Rules, 1962 (in short “the Rules”) including notice through physical mode. The Ground Nos. 4 to 6 raised by the assessee are accordingly, allowed for statistical purposes.

9. In the result, the appeal filed by the assessee is allowed partly for statistical purposes.

Order pronounced in the open Court on 20/09/2023.

**Sd/-**  
**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**

*\*Amit Kumar\**

Copy to:

1. The Appellant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR
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Asstt. Registrar  
Jabalpur Bench