

। आयकर अपीलीय अधिकरण न्यायपीठ नागपुर में ।
IN THE INCOME TAX APPELLATE TRIBUNAL,
NAGPUR BENCH : : NAGPUR

[VIRTUAL HEARING AT PUNE]

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.220/NAG/2018

निर्धारण वर्ष / Assessment Year : 2011-12

M/s.Jagdamba Realtors Pvt. Ltd., 6 th Floor, Nikalas Tower, Central Bazar, Ramdaspath, Nagpur – 440010. PAN: AAACJ4369A	V s	The Assistant Commissioner Of Income Tax, Central Circle-2(1), Nagpur
Appellant/ Assessee		Respondent/Revenue

Assessee by	None
Revenue by	Shri Kailas Kanojiya – Sr.DR
Date of hearing	30/08/2023
Date of pronouncement	14/11/2023

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the assessee against the order under section 250 of the Income Tax Act, 1961 passed by ld.Commissioner of Income Tax(Appeals)-3, Nagpur on 25.06.2018 for the A.Y. 2011-12. The grounds of appeal are as under :

“1. The Ex-party order passed by learned Commissioner of Income Tax (Appeals)-3, Nagpur is illegal, invalid and bad in law.

2. *The learned Commissioner of Income Tax (Appeals)-3 erred in confirming the addition made by assessing officer at Rs.1,68,38,845/-, therefore order passed is unjustified, unwarranted and excessive.*

3. *On the facts and in the circumstances of the case the CIT(A)-3, Nagpur erred in not considering the adjournment application of the assessee dtd. 20/06/2018, which was filed in Dak and requested for adjournment, without considering the adjournment application order passed is illegal, invalid and bad in law.*

4. *The learned Commissioner of Income Tax (Appeals)-3 erred in confirming the addition made by the assessing officer disallowed to be carried forward of loss as the assessee did not filed the return on or before due date and made addition of Rs. 10,46,634/-, therefore addition made are unjustified, unwarranted and excessive.*

5. *The learned Commissioner of Income Tax (Appeals)-3 erred in confirming the addition made by the assessing officer at Rs.10,46,634/- as unaccounted income, therefore order passed is unjustified, unwarranted and excessive.*

6. *The appellant seeks permission to add any other ground of appeal or amend or alter the aforesaid ground of appeal.”*

Brief facts of the case :

2. Assessee had not filed Return of Income under section 139(1) of the Act. A search in the case of assessee took place on 07.03.2013 which was concluded 30.04.2013. Notice under

section 153A of the Act, dated 24.10.2013 was issued and served on assessee requesting assessee to file return within 30 days. In response to notice under section 153A of the Act, the assessee filed Return of Income on 24.03.2015 declaring total loss of Rs.1,78,85,479/-. Assessee had started residential plot schemes which comprises of 226 plots. For A.Y.2011-12, the Assessing Officer(AO) in para 7 has observed that assessee had not shown the sales of Rs.1,30,82,926/-. Assessee has not offered profit on the impugned sale. It is mentioned in the assessment order that assessee accepted 8% profit on sale for taxation purpose. Therefore, AO made an addition of Rs.10,46,634/- which is 8% of Rs.1,30,82,926/-. The AO has also not allowed the assessee to carry forward the loss as assessee had not filed Return of Income on or before due date.

3. Aggrieved by the assessment order, assessee filed appeal before Id.CIT(A). No submission has been made by assessee before the Id.CIT(A). Therefore, the Id.CIT(A) confirmed the addition made by AO.

4. None appeared on behalf of the assessee, no adjournment letter has been filed.

Findings& Analysis :

5. We heard the ld.Departmental Representative(ld.DR) for the Revenue and perused the records. The assessee's Ground Nos.1 &3 are related to ex-parte order passed by ld.CIT(A). It is an admitted fact by ld.CIT(A) that assessee had filed a request for adjournment on 20.06.2018. However, ld.CIT(A) though mentioned about the adjournment request proceeded to decide the case ex-parte as on earlier three hearings, the assessee had sought adjournments.

5.1 In these facts and circumstances, We are of the opinion that since assessee had filed request for adjournment, ld.CIT(A) should have given one more opportunity. Therefore, we set-aside the order of ld.CIT(A) to ld.CIT(A) for denovo adjudication after giving opportunity of hearing to the assessee. The assessee shall provide all the necessary document required by the ld.CIT(A). Accordingly, grounds of appeal i.e.1 & 3 raised by the assessee are allowed for statistical purpose.

6. In the result, Ground No.1 & 3 raised by the assessee are allowed for statistical purpose.

Ground Nos.2, 4, 5 & 6 :

7. Since we have already decided the appeal to set-aside to ld.CIT(A), these Ground Nos.2, 4, 5 & 6 become academic. Accordingly, these grounds are allowed for statistical purpose.

8. To sum up, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 14th Nov, 2023.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 14th November, 2023/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, नागपुर बेंच,
नागपुर/ DR, ITAT, Bench, Nagpur.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.