

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER
ITA No. 2702/Mum/2023
(A.Y: 2015-16)

Geeta Mandar Joshi, 122B, Purshottam Towers CHSL, Gokhale Road (South), Prabhadevi, Dadar, Mumbai-400028.	Vs.	ITO, Ward -35(1)(4) Kautilya Bhawan, G-Block, BKC, Mumbai-400051.
PAN/GIR No. : AHQPJ8798M		
Appellant	..	Respondent

Assessee by :	Shri. Anil Sethe.AR
Revenue by :	Shri. G.J. Ninawe, Sr. DR

Date of Hearing	30.10.2023
Date of Pronouncement	31.10.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

This appeal is filed by the assessee against the order of the National Faceless Appeal Centre, Delhi / CIT(A) passed u/s 143(3) and 250 of the Ac. The assessee has raised the following grounds of appeal:

1 The learned Commissioner of Income Tax (Appeals) [CIT(A)] erred in dismissing the appeal on technical grounds for not responding to the appeal notices and thus the appellant was prevented from explaining her case on merits.

2 The learned CIT(A) erred in upholding addition u/s 69 amounting to Rs. 14,21,126/- as unexplained investments.

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3. *The learned CIT(A) erred in upholding the addition u/s 69 even though the appellant had offered explanation for the sources of investment at the assessment stage.*

4. *The learned CIT(A) failed to appreciate that the appellant had explained the source of balance investment as personal loan / savings and the act of the learned Assessing Officer in disregarding such explanation was completely erroneous.*

5. *The learned CIT(A) failed to appreciate that the learned Assessing Officer erred in concluding that the personal loan availed by the appellant was for purchase of new house whereas in fact it was taken for renovation and did not have any nexus with investment in new house.*

6. *The Appellant craves leave to add alter or amend any of the grounds of appeal at any time before or at the time of hearing.*

2. The brief facts of the case are that, the assessee is an individual and derives income from salary and income from other sources. The assessee has filed the return of income for the A.Y 2015-16 on 30.08.2015 disclosing a total income of Rs.4,88,650/- and the return of income was processed u/s 143(1) of the Act. Subsequently the case was selected for scrutiny and notice u/sec 143(2) and U/sec142 (1) of the Act were issued. In compliance to the notice, the assessee has submitted the information and the case was discussed. The Assessing Officer (AO) on perusal of the facts and information found that the assessee has purchased a property along with her husband for

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Rs.2,78,55,980/- including stamp duty and registration charges. The A.O find that the assessee has filed the sources and cash flow statement with the supportive evidences to the extent of Rs.2,64,34,854/- and the explanations of the assessee for the difference amount of Rs.14,21,126/- were not satisfactory and treated as unexplained investment u/s 69 of the Act and assessed the total income of Rs. 19,09,770/- and passed the order u/sec 143(3) of the Act dated 22.12.2017.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and since there was no compliance by the assessee to notices sent by email. Therefore the CIT(A) considering the information on record has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld. AR submitted that the CIT(A) has erred in confirming the action of the Assessing officer overlooking the submissions made in the assessment proceedings. The CIT(A) has sent notices to old email

account, which is not in use and hence no communication is received by the assessee and the non appearance before the appellate authority is not an wanton act but the circumstances explained. Further the assessee has a good case on merits and shall substantiate with the material evidences and prayed for an opportunity to explain before the lower authorities. Contra, the Ld. DR supported the order of the CIT(A).

5. Heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no appearance in spite of providing adequate opportunity of hearing and the notices were issued. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. The Ld. CIT(A) has issued the notices/emails of hearing on 20-01-2021, 20-04.2023, 02-05-2023 & 09-05-2023 referred at Page 5 Para 3 of the order, but there was no response and thus the Ld.CIT(A) came to a conclusion that the assessee is not interested and decided the appeal based on the information available on record. The Ld.AR submitted that the CIT(A) has sent notice to old email account, which is not in use and the

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non appearance before the appellate authority is not an wanton act but the circumstances explained. Whereas the assessee has raised grounds of appeal challenging the additions of the A.O and there could be various reasons for non appearance which cannot be overruled. Therefore, considering the principles of natural justice shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of the appeal. Accordingly, allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 31.10.2023.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 31.10.2023

KRK, PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Mumbai
6. Guard File

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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(Asst. Registrar)
ITAT, Mumbai