

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'F' NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.993/Del/2022  
Assessment Year: 2012-13

Ms. Ritu Goel, C-3/2002, Cleo County, Sector 121, Noida	<b>Vs.</b>	Income Tax Officer, Ward-59(6), Delhi
<b>PAN :ALPPG2010A</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. S. Ghosh Roy, CA
Department by	Sh. S.L. Anuragi, Sr. DR

Date of hearing	14.11.2023
Date of pronouncement	29.11.2023

**ORDER**

**PER SAKTIJIT DEY, V.P.**

This is an appeal by the assessee against order dated 16.02.2022 of learned Commissioner of Income Tax (Appeals)- 42, Delhi, for the assessment year 2012-13.

2. The grounds raised by the assessee are as under:

1. *That the orders of the Ld. CIT(A) are against the facts and circumstances and legal provisions of law, thus are illegal, erroneous, unjustified and perverse.*
2. *That the Ld. CIT(A) is not justified in concurring with the AO in confirming the addition of Rs.55,54,000/- without affording sufficient opportunity of hearing of the*

*appellant which action is against the facts of the present case and hence bad in law.*

3. *That without prejudice to above the appellant disputes the quantum of addition has highly excessive.*
4. *That the appellant craves leave to add, amend or delete any of the grounds of appeal on or before the disposal of the present appeal.*

3. Briefly the facts are, the assessee is a non-resident individual. For the assessment year under dispute, the assessee did not file any return of income. Subsequently, the Assessing Officer received information that in the financial year relevant to assessment year under dispute the assessee had invested an amount of Rs.55,54,000/- in immovable property. Based on such information, the Assessing Officer reopened the assessment under section 147 of the Income-tax Act, 1961 (in short 'the Act'). As observed by the Assessing Officer, the notices issued under section 148 as well as under section 142(1) of the Act were not complied with by the assessee. Thus, ultimately, the Assessing Officer proceeded to complete the assessment to the best of his judgment under section 144 read with section 147 of the Act. While doing so, he added back the amount of Rs.55,54,000/- to the income of the assessee. The assessee contested the aforesaid addition before learned first appellate authority. However, the addition was sustained.

4. Before us, learned counsel appearing for the assessee submitted that in course of proceedings before the first appellate authority, the assessee, though, furnished copies of allotment letter and possession letter, however, the sale deed could not be uploaded inadvertently. He submitted, for this reason alone, the first appellate authority has sustained the addition. He submitted, the assessee had actually invested an amount of Rs.26,27,890/- for purchasing the property. Whereas, the Assessing Officer has taken the stamp duty value. He submitted, since, the issue has been decided without properly appreciating the facts, it needs to be restored back to the first appellate authority for enabling the assessee to properly explain her case through evidences.

5. Though, learned Departmental Representative relied upon the observations of the first appellate authority, however, he fairly submitted that the issue can be re-examined by the first appellate authority.

6. We have considered rival submissions and perused the materials on record. It is evident, since, the assessee did not participate in the assessment proceedings, the assessment was completed *ex-parte* under section 144 read with section 147 of the

Act. So the assessee had no occasion to furnish any evidence before the Assessing Officer regarding the investment made in the immovable property. However, before the first appellate authority, the assessee had explained that, though, she had booked a flat in Krishna Apra Sapphire at Indirapuram, Ghaziabad, for an amount of Rs. 32,72,222/-, however, it was sold to the assessee at Rs.26,27,890/-. It was submitted that the possession of the flat was given to her on 14.06.2011 and was registered on 15.06.2011 showing the sale value of Rs.26,27,890/-. But for the purpose of stamp duty, it was valued at Rs.55,43,500/-, being the circle rate of the property. In support of such claim, the assessee had furnished copies of allotment letter and possession letter. However, copy of sale deed was not uploaded. It is evident, learned first appellate authority has sustained the disallowance for non-furnishing of the sale deed. He has also declined to accept other evidences furnished by the assessee as they were not furnished through a proper application seeking admission of additional evidences in terms of Rule 46A. In our view, if the assessee seeks to prove the source of actual investment made in the immovable property by furnishing evidence, such opportunity should be given to the assessee.

7. In view of the aforesaid, we are inclined to set aside the impugned order of learned first appellate authority and restore the issues to him for *de novo* adjudication, after due and reasonable opportunity of being heard to the assessee. The assessee shall be at liberty to furnish supporting evidences, which shall be considered on their merits by learned first appellate authority. Grounds are allowed for statistical purposes.

8. In the result, appeal is allowed for statistical purposes.

***Order pronounced in the open court on 29<sup>th</sup> November, 2023***

**Sd/-  
(M. BALAGANESH)  
ACCOUNTANT MEMBER**

**Sd/-  
(SAKTIJIT DEY)  
VICE-PRESIDENT**

Dated: 29<sup>th</sup> November, 2023.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi

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