

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, JUDICIAL MEMBER AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.706/Bang/2023
Assessment Year : 2017-18

Shri Channegowda Ashok Kumar, No.45, 8 <sup>th</sup> Cross, 11 <sup>th</sup> Main Road, Malleshwaram, Bengaluru – 560 003. <b>PAN : AKYPK 9979 J</b>	Vs.	ACIT, Circle – 2(1)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Kirath Singh Marhas, Advocate
Revenue by	:	Shri. Subramanian S, JCIT(DR)(ITAT), Bengaluru.

Date of hearing	:	22.11.2023
Date of Pronouncement	:	22.11.2023

**ORDER**

*Per George George K, Vice President :*

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 02.08.2023, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2017-18.

2. The grounds raised by the assessee read as follows:

1. *The order passed by the learned Commissioner of Income Tax (Appeals), NFAC, ('CIT(A)'), under section 250 of the Act insofar as it is against the Appellant, is opposed to law, weight of evidence, natural justice and probabilities on the facts and circumstances of the Appellant's case.*

2. *The authorities below erred in law in passing the orders ex parte without affording sufficient opportunity of hearing and consequently, such orders is liable to be set aside on the facts and circumstances of the case.*
3. *The authorities below erred in law in passing the orders without properly serving the notices on the appellant on the facts and circumstances of the case.*
4. *The Appellant denies himself to liable to be assessed on a total income of Rs. 2,77,42,708/- as against the returned income of Rs.30,15,170/- on the facts and circumstances of the case.*
5. *The learned CIT(A) is not justified in confirming the disallowance of Rs. 2,47,27,538/- deduction claimed under section 54F of the Act made by the learned Assessing Officer on the facts and circumstances of the case.*
6. *The authorities below ought to have appreciated the fact that sale of agricultural land does not give rise to long term capital gain on the facts and circumstances of the case.*
7. *Without prejudice, the authorities below failed to appreciate that the Appellant has reinvested the sale consideration in residential house property and has claimed exemption under section 54F of the Act and consequently no such disallowance ought to have been made by the learned Assessing Officer on the facts and circumstances of the case.*

*The Appellant craves to add, alter, modify, substitute, change and delete any or all of the grounds and to file a paper book at the time of hearing the appeal.*

*In the view of the above and other grounds that may be urged at the time of the hearing of appeal, the Appellant prays that the appeal may be allowed in the interest of justice and equity.*

3. Brief facts of the case are as follows:

Assessee is an individual. For the Assessment Year 2017-18, the return of income was filed on 31.10.2018 declaring income of Rs.30,25,161/-. The return of income was selected for scrutiny and notice under section 143(2) of the Act was

issued. The AO concluded the assessment under section 144 of the Act (order dated 30.11.2019) determining the total income at Rs.5,92,20,094/-. The addition made by the AO are as follows:

<b>Particulars</b>	<b>Amount</b>
Returned Income	30,15,170/-
Additions:	
1) Disallowance of deduction claimed u/s 54F	2,47,27,538/-
2) Income from Other Sources	2,51,77,386/-
Assessed Income	5,29,20,094/-

4. Aggrieved by the Order of Assessment, assessee preferred appeal before the First Appellate Authority (FAA). The CIT(A) passed ex-parte order since there was no response to the notices issued from the office of the FAA. The CIT(A) deleted the addition made under the head 'income from other sources' amounting to Rs.2,51,77,386/-. The CIT(A) confirmed the disallowance of deduction claimed under section 54F of the Act, amounting to Rs.2,47,27,538/-.

5. Aggrieved by the order of the CIT(A), assessee has filed the present appeal before the Tribunal. The learned AR submitted that the proceedings before the CIT(A) was faceless and the hearing notices were issued to the email address which was not taken note by the assessee, as the same may have been settled in the spam folder. It was submitted that the non-participation / non-compliance during the assessment proceedings as well as the appellate proceedings were not deliberate and for the reasons beyond the control of the assessee. The learned AR submitted that the assessee came to be aware of the said non-compliance only when the present counsel of the assessee had logged into the e-filing portal. Therefore, in the interest of justice and equity, it was submitted that one more opportunity may be granted to the assessee to represent his case.

6. Learned DR supported the orders of the AO and CIT(A).

7. We have heard the rival submission and perused the material on record. In the instant case, assessment was completed under section 144 of the Act since there was no response to the notices issued. Further, the CIT(A) has also passed ex-parte order and was fair in deleting the addition made with respect to the income from other sources. It is the case of the assessee that the hearing notices issued from the office of the FAA was not noticed since it might have settled in the spam folder of the assessee's emails. We strongly deprecate the assessee's nonchalant attitude for not representing his case before the AO or the CIT(A). However, in the interest of justice and equity, we are of the view that one more opportunity ought to be granted to the assessee to represent his case. Therefore, the matter is restored to the files of the CIT(A) for limited purpose of examining the claim of deduction under section 54F of the Act. Assessee is directed to cooperate with the Revenue and shall furnish the necessary evidence in support of his case. The assessee shall not seek unnecessary adjournments. It is ordered accordingly.

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

*Pronounced in the open court on the date mentioned on the caption page.*

Sd/-

**(LAXMI PRASAD SAHU)**  
**Accountant Member**

Bangalore.

Dated: 22.11.2023.

/NS/\*

Sd/-

**(GEORGE GEORGE K)**  
**Vice President**

Copy to:

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|---------------|------------------------|
| 1. Appellants | 2. Respondent          |
| 3. DRP        | 4. CIT                 |
| 5. CIT(A)     | 6. DR,ITAT, Bangalore. |
| 7. Guard file |                        |

By order

Assistant Registrar,  
ITAT, Bangalore.