

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "G", MUMBAI
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER
ITA No. 2348/Mum/2023 (A.Y.2013-14)

Ms. Shalini Alok Agarwal,
AG 1/AG 101, Sarnath Co.
Op. Housing Society,
Upper Govind Nagar,
Malad (E), Mumbai- 400097,
PAN: AAHPA0078K

..... Appellant

Vs.

ACIT Cir. 25(1),
Kautilya Bhawan,
Near Videsh Bhawan,
Bandra Kurla Complex,
Bandra (East)
Mumbai- 400051

..... Respondent

Appellant by : None
Respondent by : Shri Rameshwar Meena, Ld. DR

Date of hearing : 09/10/2023
Date of pronouncement : 20/12/2023

ORDER

PER GAGAN GOYAL, A.M:

This appeal by assessee is directed against the order of National Faceless Appeal Centre (NFAC), Delhi dated 12.06.2023 u/s. 250 of the Income Tax Act,

1961 (in short 'the Act') for A.Y. 2013-14. The assessee has raised the following grounds of appeal:-

1.0 That on the facts and in the circumstances of the case, the disallowance and/or denial of claims and/or relief, imposition of tax and interest with reference thereto, the quantification of taxable income and the tax liability, including interest, by the Ld. Hon'ble CIT (A) has been grossly unjustified, erroneous and unsustainable and to give appropriate relief in accordance with law.

2.0 That on the facts and in the circumstances of the case, Ld. Hon'ble CIT (A) erred in treating the Long Term Capital Gain of the assessee as Short Term Capital Gain and taxing the same as such and confirming the additions made by Ld. ACIT.

3.0 That on the facts and in the circumstances of the case, Ld. Hon'ble CIT (A) erred in disallowing the deduction of Rs. 69,22,939/-claimed u/s 54 and confirming the disallowance made by Ld. ACIT.

4.0 That on the facts and in the circumstances of the case, Ld. Hon'ble CIT (A) erred in not admitting the additional claim of expenses of Rs. 8,06,372/-made by the assessee backed by suitable evidence submitted during original assessment before Ld. ACIT.

5.0 That on the facts and in the circumstances of the case, on disposal of this appeal, material adjustments would be required in computing total income, interest, etc. and necessary direction may please be given on this front.

6.0 That the appellant craves leave, to add, amend, modify, rescind, supplement, or alter any or all of the Grounds stated here-in-above, either before or at the time of hearing of this appeal.

2. Brief facts of the case are that assessee is an Individual, filed her return of income on 05-08-2013, declaring total income at Rs. 31,29,950/-. Case of the

assessee was selected for scrutiny under CASS and relevant notices were issued. Assessee claimed exemption u/s. 54 of the Act amounting to Rs. 69,22,939/- (Amount Invested in new property Rs. 44,22,939/- and Amount deposited in Capital Gains A/c. 25,00,000/-) out of total long term capital gains of Rs. 89,94,836/-. Balance Amount of Rs. 20, 71,897/- were offered for tax under the head long term capital gains.

3. During the assessment proceedings AO, was not agreed with the claim of assessee and treated the transaction of sale of property as short term capital gains and disallowed the exemption claim under the head LTCG, treated the same as STCG amounting to Rs. 1,43,78,845/-. Assessee being aggrieved with this order of AO, preferred an appeal before the Ld. CIT (A). Before the Ld. CIT(A), notices u/s. 250 of the Act were issued on email ids provided by the assessee vide notices Dated: 20.02.2021, 15.09.2022, 23.09.2022 and 01.06.2022, but there was no response by the assessee in terms of relevant submission/reply against the notices. Ultimately, Ld. CIT (A) decided the issue based on assessment order and record available with the AO on *Ex-Parte* Basis and confirmed the action of the AO as discussed (*supra*). Assessee being further aggrieved preferred this present appeal before us. We have gone through the order of AO passed u/s. 143(3) of the Act, order of Ld. CIT (A) u/s. 250 of the Act on *Ex-Parte* basis and grounds raised by the assessee.

4. It is observed by the bench that approach of the assessee appellant is very casual, which is not justifiable at any front. Assessee never turned before the Ld. CIT (A) with its submissions/replies nor produced the same before us also, still seeking relief simply by filing appeal in Form No. 36. Approach of assessee

appellant is highly unprofessional and demonstrates incompetence at the end of consultant handling the matter of assessee. Still, as a matter of taking a lenient approach and for sake of natural justice, we again restore the matter back to the file of Ld. CIT (A) for re-adjudication of the matter after giving proper opportunity of being heard to the assessee. Assessee is directed to co-operate before the Ld. CIT (A) during the appeal proceedings without fail and seeking any adjournment in the matter.

5. In these terms, matter is restored to the file of Ld. CIT (A) and appeal of the assessee is allowed for statistical purposes without any comment on the merits of the case.

5. In the result appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 20th of December, 2023.

Sd/-

(PAVAN KUMAR GADALE)

JUDICIAL MEMBER

Mumbai, दिनांक/Dated: 20/12/2023

Sr. PS (Dhananjay)

Sd/-

(GAGAN GOYAL)

ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai