

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH, AHMEDABAD**

BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA No.906/Ahd/2023
Assessment Year: 2021-22**

Jitendra Vadilal Patel, 255, Ghanti Faliyu, Vasna Keliya, Vasna, Dholka, Ahmedabad – 387 810 [PAN – AAWPP 0280 H] (Appellant)	Vs.	Assessment Unit, Income Tax Department, ITO Ward 7(2)(1), Ahmedabad. (Respondent)
Assessee by	Shri Mitul A. Ruparayl, CA	
Revenue by	Shri Sushil Kumar Katiar, Sr. DR	
Date of Hearing	01.01.2024	
Date of Pronouncement	17.01.2024	

ORDER

This appeal is filed by the assessee against order dated 15.09.2023 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2021-22.

2. The assessee has raised the following grounds of appeal :-

- “1. The order passed by Commissioner of Income Tax (Appeal), (NFAC) Delhi is bad in law and contrary to the provision of law and facts. It is submitted that the same be held so now.
2. The Commissioner of Income Tax (Appeal), (NFAC) Delhi has grossly erred in confirming addition of Rs.25,50,000/- on the ground that documents were not submitted with the written submission. However, all documents were duly uploaded with the written submission on the portal which are still available on the portal.
3. The appellant filed his return of income for A.Y. 2021-22 on 11.12.2021 declaring total income Rs.25,870/- and claiming receipt on sale of rural agriculture land of Rs.25,50,000/- as exempt receipt. While filing the return of income the sale proceeds from rural agricultural land was filed in the ITR form as agriculture receipt and claimed exempt. During the assessment proceedings, it was

clarified by the appellant that the receipt of Rs.25,50,000/- was the amount of sale proceeds of rural agriculture land. The assessing accepting the fact as receipt of Rs.25,50,000/-was sale proceeds of agriculture land. The Assessing Officer made addition of Rs.25,50,000/- being the sale consideration of rural agriculture land as short-term capital gain in the absence of documentary evidences of agriculture land. The appellant also reserves his right to submit all the details in connection with the addition as fresh evidence as per Rule 46A of the IT Rule 1962 at the time of hearing of this appeal. Being aggrieved by the addition so made in assessment, interest charged and initiation of penalty proceedings, the appellant prefers appeal on the accompanied grounds,”

3. The assessee filed return of income on 11.12.2021 declaring total income of Rs.25,870/-. The case was selected for complete scrutiny to verify the issue related to large agricultural income where the return of income for last two Assessment Years was not filed. Since the assessee has not filed any details except the reply dated 20.08.2022 the Assessment Order was passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 thereby making addition of Rs.25,50,000/- on account of Short Term Capital Gain (STCG).
4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.
5. The Ld. AR submitted that the assessee has not received any notice from the CIT(A) related to notice dated 06.09.2023 for furnishing information sought which is mentioned in paragraph no.5.1.1 of the order of the CIT(A). Therefore, the Ld. AR requested that the assessee be given opportunity of hearing before the CIT(A) and allowing the assessee to file the details as called upon.
6. The Ld. DR relied upon the Assessment Order and the order of the CIT(A).
7. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the CIT(A) mentioned in the notice dated 06.09.2023 for furnishing cetin information by the assessee, but there is no mention as to whether this notice was served to the assessee or not. The contention of the Ld. AR that notice was not received is taken into account and in

the interest of justice it will be appropriate to remand back this matter to the file of the CIT(A) for proper adjudication of the evidences asked for by the CIT(A). The additional evidences filed before the CIT(A) and before the Tribunal are admitted. The CIT(A) is directed to take cognizance of the said evidence and adjudicate the matter/issues as per law. Needless to say the assessee be given opportunity of being heard.

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

Order pronounced in the open Court on this 17th January, 2024.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 17th January, 2024

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Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad