

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

**BEFORE CHANDRA POOJARI, ACCOUNTANT MEMBER AND
SHRI NARENDRA KUMAR CHODHRY, JUDICIAL MEMBER**

ITA No.822/Bang/2023
Assessment Year : 2019-20

ITO, Ward – 1 and TPS, Vijayapur.	Vs.	Shri. Nanda Gopinathsa Malji, Bhavasa Nagar, Near Darga Cross, Bijapur – 586 103, Karnataka. PAN : AHSPM 0163 B
APPELLANT		RESPONDENT

Revenue by	:	Shri. D. K. Mishra, CIT(DR)(ITAT), Bengaluru.
Assessee by	:	None

Date of hearing	:	12.02.2024
Date of Pronouncement	:	12.02.2024

ORDER

Per Bench :

This appeal at the instance of the Revenue is directed against NFAC’s order dated 07.09.2023, passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Year is 2019-20.

2. Originally the case was fixed for hearing on 13.12.2023. None appeared on behalf of the assessee, hence was adjourned to 11.01.2024. Again none appeared for assessee. Later, the case was fixed for hearing for 12.02.2024. Notice has been issued to the address mentioned in the CIT(A)’s order which has been served to the assessee on 17.01.2024. Assessee has filed written submissions. None appeared on behalf of the assessee, hence we proceed to hear the case after hearing learned DR and considering the written submissions filed by the assessee.

3. The learned DR supported the orders of the AO submitted that the learned CIT(A) admitted the additional evidence without confronting to AO. Hence, he prayed that the issue may be remitted to AO for fresh consideration.

4. The facts of the case are that assessee claimed exemption of Rs.6,49,30,875/- in respect of compulsory acquisition of land as the same has been claimed as exemption in his return of income. However, AO treated it as taxable. Against this, assessee went in appeal before NFAC. NFAC deleted the addition after considering order of Special Land Acquisition Officer, Hubli-Hospet section, Government of Karnataka wherein assessee received compensation of Rs.12,98,68,750/- vide order dated 12.04.2018 and assessee's share was Rs.6,49,30,875/- as per the above order of Special Land Acquisition Officer, Hubli-Hospet section. It was noted by CIT(A) that land was acquired through The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR Act), 2013. Thus CIT(A) followed the CBDT circular No.36/2016 to grant exemption on compulsory acquisition of land.

5. Against this Revenue is in appeal before us. Assessee produced new documents. The NFAC admitted that it is in violation of Rule 46A(3) of the Income Tax Rules, 1962. Hence, it was prayed that the issue may be remitted to the file of the AO so as to give opportunity of hearing to the AO. We accede to the request of the learned DR. Accordingly, the issue is remitted to the file of the AO to decide the issue in dispute after giving opportunity of hearing to the assessee.

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

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

Sd/-

**(NARENDRA KUMAR CHOUDHRY)
Judicial Member**

Sd/-

**(CHANDRA POOJARI)
Accountant Member**

Bangalore.

Dated: 12.02.2024.

/NS/*

Copy to:

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

By order

Assistant Registrar,
ITAT, Bangalore.