

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

**Before: Smt. Annapurna Gupta, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 459/Ahd/2023
Assessment Year 2018-19**

Kirankumar Amrutlal Patel 7, Bharatnagar Society Urban Bank Road, Mehsana-384002, Gujarat PAN: ABIPP5749C (Appellant)	Vs	Commissioner of Income Tax (NFAC), Delhi (Respondent)
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Assessee Represented: None
Revenue Represented: Shri Urjit B Shah, Sr.D.R.

Date of hearing : 06-03-2024
Date of pronouncement : 08-03-2024

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against exparte appellate order dated 03.04.2023 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the assessment order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2018-19.

2. Brief facts of the cases, the assessee is an individual derive income from salary, business and other sources. For the Asst. Year 2018-19, the assessee filed his return of income on 22/08/2018 declaring total income of Rs.4,35,260/-. The return was taken for scrutiny assessment and notice under section 142(1) was issued in faceless assessment proceedings asking the assessee to furnish details of investment made in immovable property and why the valuation under section 50C should not be invoked. The assessee replied that he purchased the immovable property along with nine others and his share is 2.7 % only and he paid the sale consideration of Rs.18,476/- on 01-02-2019 by cheque instead of Rs.4,98,879/- and produced copy of the bank statement. Because of the dispute arise between the Seller and the Purchasers, the balance amount was not paid by the Purchasers. The entire sale transaction is under dispute and the Revenue Authorities refused to enter the Purchasers name in the Revenue Record, therefore, the issue is now pending before Hon'ble Gujarat High Court. Since the entire sale transaction is under dispute, the question of invoking section 50C does not arise in his case and requested to drop the assessment proceedings.

3. The Assessing Officer in the faceless assessment proceedings has not accepted the above submissions. Since in the Sale Deed at page number 10, the total amount of Rs.4,90,879/- has been reflected as paid through various cheques to the Seller and at page number 19, it has been mentioned that no balance amount payable by the Purchasers, therefore, invoking the provisions of section 56(2)(x)(b)(B) of the Act, the difference between the stamp value of

Rs.2,83,74,720/- and the purchase value of Rs.1,84,73,850 which comes true Rs.98,95,870/-, wherein assesses share of 2.7% namely Rs.2,67,188/- was added as the income of the assessee and demanded tax thereon.

4. Aggrieved against the assessment order, assessee filed an appeal before National Faceless Appeal Centre raising the following Grounds of Appeal:

1. The DCIT, NFAC-Delhi has erred in law and on facts of the case and not justified in making addition of income of Rs.2,67,188/- under valuation of stamp duty value on purchase consideration of the property u/s 50C of I.T. Act 1961.

2. Your appellant crave, leave to add, alter, and or to eared modify substitute all or any ground of appeal before final hearing if necessity so arise".

3.2. The appellant has stated the facts in column no. 11 of Form No. 35 as under:

"My self is earn salary income, agriculture income, income from other sources and business income from Gujarat Trading co return of income declared according. filed return on dt. 22.08.2018. The addition made of Rs.6,59,065/- towards under valuation on purchase of land and hence this appeal.

Ground number 1 undervaluation of stamp duty on purchase consideration of the property of Rs.2,67,188/-.

In the year under consideration, I have purchased land with other 10 co-purchasers at village Udhrojpura, Tal: Mandal, Dist: Ahmedabad, Gujarat for consideration of Rs.1,84,78,850/- and my share in the property is 2.70 %.

2. The dispute arrives between purchaser and seller and said land not registered with revenue records in our name and same rejected without entering our names. The copy of rejection order made by revenue authority, attached here with and matter is pending with Gujarat High Court. Under stated facts of the case, section 50C of I.T. Act, 1961 does not applicable in my case.

*3. Further, I state you that the stamp duty value will not apply if value of property is adversely affected due to its usage etc. as he in the case of **Janaki Ram Vs. CIT (2015) 155 ITD, 792 (Hyd).***

4. In our case when ownership of land not transferred and in dispute, the provision of stamp duty valuation is not applicable.”

5. The NFAC issued four notices to the assessee and the assessee failed to file his submission, but only sought for an adjustment. Therefore, with available material on record, the Ld.CIT(A), NFAC confirmed the addition made by the assessing officer and thereby dismissed the assessee appeal observing as follows:

“5. I have perused the assessment order and the material on record. This is a case where the assessee alongwith 10 other co-purchasers has purchased land, having stamp value of Rs.2,83,74,720/- for a purchase consideration of Rs.1,84,78,850/-. The share of the appellant in this purchase consideration is 2.7%. The assessee stated that only an amount of Rs.18,476/- has been paid as purchase consideration by him. However, the AO pointed out that on page-10 and 19 of the Purchase Deed it has been mentioned that the entire purchase consideration of Rs.4,98,879/- has been paid by the assessee and no balance is outstanding from the any of the purchasers. In view of this, the AC has added an amount of Rs.2,67,188/- being 2.7% of the differential amount between the stamp value rate and the purchase consideration. The appellant during appeal proceedings has not made any submissions or submitted any evidence to controvert the above findings of the AO. I find that the assessment order is in accordance with the facts of the case and the provisions of law. Therefore, the addition made by the AC of Rs.2,67,188/- u/s 56(2)(x)(b)(B) is upheld. All the grounds of appeal are dismissed.”

6. Aggrieved against the same, the assessee is in appeal before us raising the solitary ground as follows:

1. The DCIT, NFAC-Delhi has erred in law and on facts of the case and not justified in making addition of income of Rs.2,67,188/- under valuation of stamp duty value on purchase consideration of the property u/s 50C of I.T. Act 1961 even though ownership not transferred.

7. Today is the 11th time of hearing of the above appeal. None appeared on behalf of the assessee and no authorization given to appear on behalf of the assessee. Even in the previous hearings, adjournment requests were sent from the email id of the Chartered Accountant (mmsalvi_salvi@hotmail.com) in the name of the

assessee, stating his chartered accountant is hospitalized but without enclosing any medical records. Even in the last two hearings before this Tribunal, None appeared on behalf of the assessee. This clearly shows that the assessee is not interested in pursuing the above appeal. Therefore, with the assistance of Ld. Sr. D.R., we are inclined to dispose of this appeal.

8. There is no material on record in support of the Grounds raised by the assessee, namely copy of the Sale Deed and Civil Notice on the dispute pending before High Court of Gujarat, Bank Statements, etc. In the absence of the same and the assessee being habitual non-appearance before the First Appellate Authority as well as before this Tribunal, we have no other option than to confirm the addition made by the Lower Authorities.

9. In the result, the appeal filed by the Assessee is dismissed for non-prosecution.

Order pronounced in the open court on 08 -03-2024

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER True Copy
Ahmedabad : Dated 08/03/2024

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)

5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद