

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "C", BANGALORE**

**Before Shri George George K, Vice-President &
Shri Laxmi Prasad Sahu, Accountant Member**

ITA No.53/Bang/2024 : Asst.Year 2012-2013

Dr.Sanjay R Magavi APMC Road, Udaynagar Haveri – 581 110 Karnataka PAN : ABHPR8133K.	v.	The Income Tax Officer Ward 1 Haveri.
(Appellant)		(Respondent)

Appellant by : Ms.Lakshmi, Advocate
Respondent by : Sri.V.Parithivel, JCIT-DR

Date of Hearing : 11.03.2024	Date of Pronouncement : 12.03.2024
-------------------------------------	---

ORDER

Per Laxmi Prasad Sahu, AM :

This appeal filed by the assessee is directed against the order of the CIT(A), NFAC, Delhi, dated 22.11.2023, challenging the order of the Assessing Officer dated 19.12.2017 passed u/s.143(3) r.w.s. 147 of the Income-tax Act, 1961 ("the Act" hereinafter), raising various issues as per the grounds of appeal taken by the assessee. The relevant assessment year is 2012-2013.

2. Briefly stated the facts of the case are that the assessee is a businessman, carrying on a wholesale cotton business at Haveri. The assessee has filed his return on 30th September, 2012 declaring total income of Rs.8,05,830. The case was selected for scrutiny and statutory notices were issued to the

assessee and the assessment order was completed u/s.143(3) of the Act, assessing the total income at Rs.10,47,803. Later on, the case was reopened u/s.147 / 148 of the Act because of the survey proceedings u/s.133A of the Act. During the course of survey proceedings, one registered purchase deed document found, which pertains to the assessee. After recording the reasons, the assessee was issued notice u/s.148 and reassessment was completed u/s.147 and income was assessed at Rs.1,20,74,216 including the income assessed u/s.143(3) of the Act.

3. Aggrieved from the above order of the A.O., the assessee has filed appeal before the CIT(A). The CIT(A) issued various notices to the assessee on different dates, however, the assessee has not responded to the said notices. Therefore, the CIT(A) decided the issue on the basis of the material available before him and confirmed the order of the A.O., u/s.143(3) r.w.s. 147 of the Act.

4. Aggrieved from the above order of the CIT(A), the assessee has filed the present appeal before the Tribunal. The learned AR of the assessee submitted that the learned CIT(A) issued various notice, but it was not served on the assessee. The ld.AR further submitted that the assessee has a good case and prayed that the matter may be remitted to the file of the CIT(A) for fresh consideration and then she undertook to comply all the notices.

5. The learned Departmental Representative relied on the orders of the lower authorities.

6. Considering the rival submissions and perusing the material on record, we note that the case of the assessee has been completed u/s.143(3) r.w.s. 147 of the Act and the tax demand was determined at Rs.40,39,392. During the course of assessment proceedings, it is noticed that the assessee had sold non-agricultural property for a consideration of Rs.1.35 crore as per the computation sheet filed along with the return of income on 30th November, 2017 and claimed deduction u/s.54F of Rs.80,24,000 in the construction of Sri Channabasappa Magavi Memorial Multispeciality Hospital, Station Road, Haveri. The benefit of section 54F has been denied to the assessee and the deduction allowing indexed cost of acquisition to the assessee resultantly the rest of the amount of Rs.1,10,26,386 has been determined as long term capital gain of the assessee. During the course of appellate proceedings, the assessee did not comply with the notices issued by the CIT(A). However, considering the prayer of the learned AR of the assessee and in the interest of justice and equity, we remit the issue back to the file of the CIT(A) for a fresh consideration. The CIT(A) is directed to give reasonable opportunity of being heard to the assessee and decide the issue as per law. The assessee is directed to produce necessary documents for substantiating his case and to avoid unnecessary adjournments for early disposal of the case. The assessee is also directed to update the email, mobile number and address for communication.

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

Order pronounced on this 12th day of March, 2024, through virtual hearing.

Sd/-
(George George K)
VICE-PRESIDENT

Sd/-
(Laxmi Prasad Sahu)
ACCOUNTANT MEMBER

Bangalore; Dated : 12th March, 2024.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Bengaluru.
4. The Pr.CIT, Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore