

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD

BEFORE
SHRI RAMA KANTA PANDA, VICE PRESIDENT
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 97/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2017-18)

Squaremile Projects, Vs. Income Tax Officer,
Hyderabad Ward-9(1),
[PAN : ACHFS1695Q] Hyderabad
अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri K.A. Sai Prasad, AR
राजस्व द्वारा/Revenue by: Ms. Sheetal Sarin, DR

सुनवाई की तारीख/Date of hearing: 12/03/2024
घोषणा की तारीख/Pronouncement on: 15/03/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 08/12/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), Squaremile Projects ("the assessee") for the assessment year 2017-18, the assessee preferred this appeal.

2. Brief facts of the case are that the assessee is a partnership firm engaged in the business of real estate. For the assessment year 2017-18, it filed the returns on 31/03/2018 declaring total income of Rs. 10,98,877/- under normal provisions of the Income Tax Act, 1961 (for short "the Act"). The learned Assessing Officer on 24/09/2019 issued notice under section 271D of

the Act stating that the assessee received amount in cash towards the sale consideration on sale of three properties. But, according to learned Assessing Officer, no explanations were received from the assessee and hence the learned Assessing Officer passed order under section 271D of the Act on 24/01/2022, levying penalty of Rs. 81,00,000/-.

3. Aggrieved, assessee preferred appeal before the learned CIT(A), but according to the learned CIT(A), in spite of issue of notices, assessee failed to furnish any information to substantiate its case. Hence, the learned CIT(A) dismissed the appeal vide order dated 08/12/2023.

4. Feeling aggrieved by the order of learned CIT(A), the assessee is now in appeal before us contending that the authorities erred in declining sufficient opportunity to the assessee to justify its case. It is further contended that the learned CIT(A) has passed the order without providing proper opportunity. Learned AR further submitted that the assessee does not stand to gain by allowing the appeal to be disposed of without any documentary evidence being produced and it is only due to the reasons beyond the control of the assessee, the assessee could not produce the document. He further submitted that given an opportunity, the assessee is now ready to produce all such material and conduct the proceedings diligently and get the matter disposed of on merits.

5. Per contra, learned DR placed heavy reliance on the orders of the authorities below, and submitted that sufficient opportunity has already been given by the authorities and as the impugned order evidences, about four opportunities were afforded to the assessee, but the assessee failed

to avail the same. He opposed the grant of further opportunity to the assessee.

6. We have gone through the record in the light of the submissions made on either side. It could be seen from the orders of the authorities that the assessee failed to justify the receipt of cash towards the sale consideration on sale of three properties, which resulted in passing the orders without consideration thereof. It is a fact that the assessee does not stand to gain by not producing such a document, without any valid reasons or unless it was beyond its control.

7. Be that as it may, now that the assessee is ready to produce all such documentary evidences in support of the contentions of learned AR and get the matter disposed of on merits. The highest that would happen by allowing an opportunity to the assessee is that a cause would be decided on merits. With this view of the matter, we are of the view that fresh opportunity should be given to the assessee and, accordingly, we set aside the impugned order and restore the issue to the file of the learned CIT(A) for passing a fresh order on merits after affording the opportunity of being heard to the assessee. Grounds of appeal are answered accordingly.

8. In the result, appeal of the assessee is treated as allowed for statistical purpose.

Order pronounced in the open court on this the 15th day of March, 2024.

Sd/-
(RAMA KANTA PANDA)
VICE PRESIDENT

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad, Dated: 15/03/2024
TNMM

Copy forwarded to:

1. Squaremile Projects, C/o Katrapati & Associates, 1-1-298/2/B/3,
Sowbhagya Avenue, 1st Floor, Ashok Nagar, Street No.1, Hyderabad.
2. Income Tax Officer, Ward-9(1), Hyderabad.
3. Pr.CIT-Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD