

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad 'SMC' Bench, Hyderabad**

**Before Shri R.K. Panda, Vice-President**

आ.अपी.सं / **ITA No. 173/Hyd/2024**  
(निर्धारण वर्ष / Assessment Year: 2012-13)

Shri Rajeev Bhatia Hyderabad PAN:AAOPB7053L (Appellant)	Vs.	Dy. C. I. T. Circle 12(1) Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by:	Shri Y.V. Bhanu Narayan Rao, CA	
राजस्व द्वारा / Revenue by:	Smt. Harshita Chouhan, DR	
सुनवाई की तारीख / Date of hearing:	21/03/2024	
घोषणा की तारीख / Pronouncement:	21/03/2024	

**आदेश/ORDER**

This appeal filed by the assessee is directed against the order dated 18.12.2023 of the learned JCIT (A)-2, Delhi, relating to A.Y.2012-13.

2. This appeal is filed with a delay of 1 day for which the assessee has filed a condonation application explaining the reasons for such delay. After considering the contents of the condonation petition and after hearing both sides, the delay in filing of the appeal by 1 day is condoned and the appeal is admitted for adjudication.

3. Facts of the case, in brief, are that the assessee is an individual working with M/s. Oracle India Pvt. Ltd. He filed his

return of income on 31.7.2012 declaring total income of Rs.35,40,746/-. On the basis of information received from Sub-Registrar Office, SRO SR Nagar, Hyderabad that the assessee has sold property bearing Flat No.206, H.No.7-1-28 Park Avenue Apartments, Ameerpet, Hyderabad on 14.11.2011 vide document No. 1650 for a consideration of Rs.29,75,000/- as against the SRO value of Rs.31,62,000/- and the sale consideration of the said property was less than the govt. market value by Rs.1,87,000/- which attracts provisions of section 50C of the I.T. Act, the case of the assessee was reopened u/s 147 of the Act by recording reasons and with prior approval of the PCIT. Accordingly notice u/s 148 was issued. Subsequently, statutory notice u/s 142(1) was also issued calling for certain information. The assessee filed the requisite information as called for. Since the assessee declared the sale proceeds at Rs.29,75,000/- and declared Long-Term Capital Gain at Rs.4,13,643/-, the Assessing Officer re-computed the capital gain which resulted into additional capital gain of Rs.1,87,000/-.

4. The assessee during the course of assessment proceedings submitted an agreement of sale dated 25.10.2013 for purchase of a house property and in the computation, he claimed deduction u/s 54 for the capital gain. However, the Assessing Officer rejected the same on the ground that since the assessee has not claimed any deduction u/s 54 in the return of income. The Assessing Officer accordingly completed the assessment determining the total income of the assessee at Rs.37,27,746/- as against the returned income of Rs. 35,40,746/-.

5. Since the assessee did not submit any reply despite 4 opportunities granted, the JCIT (A) dismissed the appeal for want of prosecution.

6. Aggrieved with such order of the learned JCIT (A) the assessee is in appeal before the Tribunal.

7. I have heard the rival arguments made by both the sides, perused the orders of the AO and the learned JCIT (A) and the paper book filed on behalf of the assessee. I have also considered the various decisions cited before me by both sides. I find the AO in the instant case made addition of Rs.1,87,000/- being the additional capital gain on account of sale of the property by considering the SRO value as against the actual sale consideration declared by the assessee by invoking the provisions of section 50C. While doing so, he did not consider the claim of investment in house property u/s 54 of the I.T. Act on the ground that the assessee has not made any such claim in the return of income. I find the JCIT (A) dismissed the appeal filed by the assessee for want of prosecution on the ground that despite 4 opportunities granted, the assessee did not submit any reply. As per provisions of section 250(6), the order of the JCIT (A) or CIT (A) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision. However, in the present case, the JCIT(A) has simply dismissed the appeal for want of prosecution but has not decided the appeal on merit which he is required to do even in absence of non-filing of any submission by the assessee. Considering the totality of the facts of the case and in the interest of justice, I

deem it proper to restore the issue to the file of the JCIT (A) with a direction to grant one more opportunity to the assessee to substantiate his case and decide the issue as per fact and law. The assessee is also hereby directed to file his submission, if any, before the JCIT (A) on the date of hearing without seeking any adjournment under any pretext failing which the JCIT (A) is at liberty to pass appropriate order as per law. I hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the Open Court at the time of hearing itself  
i.e. 21<sup>st</sup> March, 2024.

Sd/-

**(R.K. PANDA)**  
**VICE-PRESIDENT**

Hyderabad, dated 21<sup>st</sup> March, 2024

***Vinodan/sps***

Copy to:

S.No	Addresses
1	Shri Rajeev Bhatia, 36 DAFFODIL, Serene Country, Near Urdu University, Gachibowli 500032 Hyderabad
2	Dy.CIT, Circle 12(1) Aayakar Bhavan, LB Stadium Road, Adarshnagar, Hyderabad 500004
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*