

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"B" BENCH, BENGALURU BENCH  
BENGALURU**

**BEFORE SHRI N. K. CHOUDHRY, JM &  
SHRI LAXMI PRASAD SAHU, AM**

I.T.A. No.278/BANG/2024  
(Assessment Year: 2017-18)

**Shri Mohammed Faisal**  
73/4, Bilal Palace,  
4<sup>th</sup> Block, Katipalla,  
Mangaluru - 575030

**Income Tax Officer,  
Ward 1 (1),**  
Vs. Mangaluru

PAN No. **AAPPF1651H**

**(Appellant) : (Respondent)**

**Appellant/Assessee by** : Shri V. Narendra Sharma,  
Advocate

**Respondent/Department by** : Shri Ganesh R. Ghale,  
Standing Counsel

**Date of Hearing** : 14.03.2024

**Date of Pronouncement** : 14.03.2024

O R D E R

**Per N. K. Choudhry, JM:**

This appeal has been preferred by the Assessee against the order dated 25.1.2024, impugned herein, passed by National Faceless Appeal Centre (NFAC), Delhi/Ld. Commissioner of Income Tax (Appeals) [in short 'Ld. Commissioner'] under section 147 of the Income Tax Act 1961 (in short 'the Act') for the Assessment Year (in short 'AY') 2017-18.

**2.** In this case, the case of the Assessee was re-opened u/s. 147 of the Act, on the basis of the information available with the Department to the effect that the Assessee had sold immovable property situated at Dakshina Kannada District, Karnataka on 11.7.2016 for a total consideration of Rs.1,21,44,000/- but in his return of income filed, did not disclose the same. Accordingly a notice u/s. 148 was issued on 8.11.2019 by which the Assessee was called upon to file a return of income for the year under consideration. Thereafter, statutory notices dated 10.1.2020, 11.2.2021, 22.2.2021 and 12.3.2021 were also issued to the Assessee. The Assessee failed to avail the opportunities granted to him and preferred not to file any reply/documents in response to the aforesaid notices, therefore the Assessing Officer (in short 'AO') issued a show cause notice on 26.3.2021 proposing to complete the assessment u/s. 144 of the Act, in response to which the Assessee filed its reply online and claimed that the Assessee had already declared capital gain in the Income Tax return. The Assessee vide e-reply dated 3.4.2021 also filed copies of purchase and sale deed of property. The AO though considered the reply and documents filed by the Assessee but not being impressed by the same, ultimately vide order dated 20.4.2021 u/s. 147 of the Act worked out the capital gain of Rs.24,96,343/- and consequently added the same in the total income of the Assessee.

**3.** The Assessee being aggrieved challenged the said addition before the Id. Commissioner, who though issued four opportunities of hearing to the Assessee, however, the Assessee made no compliance and therefore in the constrained circumstances, the Id. Commissioner by dismissing the appeal filed by the Assessee affirmed the aforesaid addition.

**4.** The Assessee being aggrieved is in appeal before us. Though the Assessee do not deserve any leniency however, considering the peculiar

facts and circumstances of the case in totality, as in the absence of relevant reply/documents, the issue qua Long Term Capital Gain remained to be adjudicated its true sense and right perspective by the Id. Commissioner and therefore for the just decision of the case and ends of substantial justice, we are inclined to remand the instant case to the file of the Id. Commissioner for decision afresh, suffice to say by giving sufficient opportunity of hearing to the Assessee to substantiate its case. We are also inclined to direct the Assessee to comply with the notices and co-operate with the appellate proceedings and file the relevant submissions/ documents as would be essential/required before the Id. Commissioner and in case of further default, the Assessee shall not be entitled for any leniency.

Thus the case is remanded to the file Ld. Commissioner accordingly.

**5.** In the result appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 14.03.2024 during virtual hearing.

*Sd/-*  
**(Laxmi Prasad Sahu)**  
**Accountant Member**

*Sd/-*  
**(N. K. Choudhry)**  
**Judicial Member**

*Mini, Sr.PS.*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
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5. CIT

BY ORDER,  
(Dy./Asstt.Registrar)