

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.69/Bang/2024
Assessment Year : 2015-16

Shri Chinnayellappa Chandrashekar, No.90/10, Gangamma Temple Road, VV Extension, Hoskote, Bengaluru-562 114.  <b>PAN – ACOPC 7205 K</b>	Vs.	1) The Income Tax Officer, Ward – 4(2)(3), Bengaluru. 2) The Income Tax Officer, NFAC, Delhi.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Sunaina Bhatia, Advocate
Revenue by	:	Ms. Neera Malhotra, CIT (DR)

Date of hearing	:	13.03.2024
Date of Pronouncement	:	04.04.2024

**ORDER**

**PER SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

This is an appeal filed by the assessee against the order passed by the NFAC, New Delhi on 29/11/2023 u/s 250 of the Income-tax Act, 1961 (Act) in DIN No.

ITBA/NFAC/S/250/2023-24/1059111260(1) for the assessment year 2015-16.

2. At the very outset, we noticed that the appeal of the assessee before the first appellate authority has been decided ex parte. The reason for deciding the appeal by the CIT(A) ex parte was that several notices issued from the Office of the first appellate authority for filing written submission was not complied with by the assessee.

3. The Id.AR of the assessee filed written submissions, which is as under:-

*“1. The captioned appeal has been instituted by the above appellant for the assessment year 2015 - 16, against the order of the learned CIT [Appeals], National Faceless Appeal Centre, DELHI, dated 27/12/2023 in ITA No. NFAC/2014-15/10121668 wherein the learned CIT [Appeals], National Faceless Appeal Centre, DELHI has dismissed the appeal of the appellant and confirmed the assessment order passed u/s 147 rws 144 rws 144B of the Act dated 29/03/2022 by the National Faceless Assessment Centre.*

*2. In the assessment order so passed u/s 147 rws 144 rws 144B of the Act dated 29/03/2022, the following additions were made to the returned income.*

[a]	Long Term Capital Gains	Rs.	7,34,00,000/-
[b]	Business Income	Rs.	28,74,394/-
[c]	Unexplained Money U/s 69A		
	RWS 115BBE	Rs.	1,04,51,000/-
[d]	Income from Other Sources	Rs.	3,35,638/-

3. *The appellant being aggrieved by the order of assessment passed had instituted the appeal before the learned CIT[A] raising several grounds on the legality of the assessment as well as on merits of the addition made. The appellant had challenged the additions on merits only in respect of the following issues :-*

[a]	Long Term Capital Gains	Rs.	7,34,00,000/-
[b]	Unexplained Money U/s 69A RWS 115BBE	Rs.	1,04,51,000/-

4. *During the course of the appellate proceedings, the learned CIT[A] had called for a remand report from the Jurisdictional Assessing Officer. Accordingly, the learned JAO has issued a letter dated 22/11/2023 [copy enclosed as ANNEXURE - 1] calling upon the appellant to submit additional evidence in support of the appellant's contentions. The appellant had appeared before the learned JAO, who had sought for some further details from the appellant. Accordingly, the appellant had sought for some time to provide the said details.*

5. *Furthermore, it is submitted that the appellant had suffered a heart attack and was admitted to Manipal Hospital, Bangalore in the month of August 2023. A procedure was performed to remove blocks in the heart by the Doctors by inserting two stents to remove blockage in August 2023 and thereafter another two stents were also inserted in the month of November 2023. In this regard, the medical reports of the appellant are enclosed herewith as ANNEXURE - 2A Et 2B.*

6. *The aforesaid medical reasons preventing the appellant from gathering details and making written submissions were also mentioned in response to the hearing notices issued by the learned CIT[A]. It is submitted that the appellant had e-filed on the Income tax department portal, the requests for adjournments.*

7. *Copies of the hearing notices dated 08/11/2023 Et 15/12/2023 and the request for adjournment made by the appellant on the appointed dates seeking time for the above reasons are enclosed herewith ANNEXURE - 3.*

8. *However, without considering the adjournment request of the appellant and the medical problems of the appellant, the learned CIT[A] has dismissed the appeal ex-parte without noticing that even the learned A.O. had made the impugned additions under challenge in an ex-parte manner.*

*9. Under the aforesaid circumstances, it is requested that the matter may kindly be set-aside to the file of the learned JAG for fresh consideration on the 2 additions under challenge by leaving all other contentions open for the advancement of substantial cause of justice.*

4. In addition to the written synopsis she further submitted that the CIT(A) issued notices for compliance on different dates but because of the medical reason, the assessee could not comply the notices and filed adjournment for seeking time but the ld. CIT (A) did not consider the same and passed the order. The ld. AR undertook that if a chance is given, the assessee shall file the requisite documents as required by the revenue authorities.

5. On the other hand, the ld.DR relied on the orders of authorities below and strongly objected in sending back the appeals since both the authorities have given ample opportunities to the assessee to comply his case but the assessee deliberately did not comply any of the notices issued by both the authorities. Therefore, both the authorities have rightly decided the case of the assessee on merit with the material available with them.

6. After considering the rival submissions, we note that since assessee had medical reason for not complying the

notices , considering the request made by the ld.AR of the assessee and in the interest of justice, we are remitting the issue back to the file of the AO for fresh consideration. The AO 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 the necessary documents for substantiating her case and to avoid unnecessary adjournments for early disposal of the case and update the email, mobile No. and address for communication.

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

Order pronounced in court on 4<sup>th</sup> day of April, 2024.

Sd/-

**(GEORGE GEORGE K)**

Vice President

Bangalore,

Dated : 04.04.2024.

Vms

Sd/-

**(LAXMI PRASAD SAHU)**

Accountant Member

Copyto:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.