

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

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

IT(IT)A No.256/Bang/2024
Assessment Year : 2019-20

Shri Sridhar Sundaram, C/o Jayanthi Ramachandran, The Kodikannal Club, 7 Road Junction, Kodaikanal – 624 101. Tamil Nadu PAN : BTFPS 8769 F	Vs.	The Income Tax Officer, International Taxation, Ward-2(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Narendra Sharma, Advocate
Revenue by	:	Shri Ganesh R Gale, Standing Counsel for Department

Date of hearing	:	12.03.2024
Date of Pronouncement	:	17.04.2024

ORDER

PER SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

This is an appeal filed by the assessee against the order passed by the CIT(A), Bengaluru dated 22/09/2023 in DIN No. ITBA/NFAC/S/250/2023-24/1056428639(1) for the assessment year 2019-20.

2. The sole and substantive issue raised by the assessee on various grounds relates to challenging the ex-parte order passed by the CIT(A).

3. The brief facts of the case are that the assessee filed return of income on 30/01/2019 declaring a total income of Rs.8,14,120/-. The case was selected for scrutiny under CASS and statutory notices were issued to the assessee. It was noticed that the assessee has sold residential apartment at No.702 in “Adarsh – Gulmohar”, Varthur Hobli, Bengaluru for Rs.1,28,00,000/- and declared long term capital gain of Rs.7,45,094/- after claiming index cost. Copy of registered deed for sale of property, registered deed for purchase of apartment for Rs.24,50,000/-, unregistered construction agreement executed during March 2005, the cost of acquisition index value was calculated and filed. Further the assessee was asked to file other remaining details in support of the cost of acquisition claimed etc. The assessee furnished the details of the documentary evidences towards the payment made to the developer to the extent of Rs.40,36,219/- and Rs.33,33,333/- to AAKAR Inc towards cost of interior. However, another notice u/s 142(1) of the Act was issued to the assessee but the assessee failed to furnish the details. Accordingly, the AO completed the assessment.

4. Aggrieved from the above order, the assessee filed appeal before the First Appellate Authority (FAA). The FAA issued notices, however, there was no submission from the assessee side. Therefore, the assessment record was called for to verify the assessee's claim. After examining the records, the CIT(A) partly allowed the appeal of the assessee on the basis of material available before him.

5. Aggrieved from the above order, the assessee fled appeal before the ITAT.

6. The assessee has raised legal issue by filing additional grounds of appeal dated 10.02.2024 challenging the validity of the assessment order passed by the AO on 30.11.2021 by passing a corrigendum on the order dated 28.9.2021 treating it as a draft assessment order. This additional ground was not taken before the FAA.

7. The Id.AR reiterated the submission made before the lower authorities and submitted that the notices were not issued to the email.id of the assessee. Hence, the assessee could not attend to the proceedings. The Id.AR of the assessee further submitted that during the course of assessment proceedings on the best efforts made by the

assessee, he could not get the confirmation letter from the bank for payments made because of the merger of the branches. Accordingly, the Id.AR requested and undertook that if assessee is given a chance, he will be able to produce necessary documents for substantiating his claim.

8. On the other hand, the Id. DR strongly relied on the orders of the lower authorities and submitted that the FAA issued various notices but the assessee has not compiled the same. Hence, the FAA has rightly passed the order giving partial relief to the assessee. He strongly objected for sending back the matter to the file of the FAA.

9. Considering the rival submissions, we note that various notices were issued by the Id. FAA. However, as per the Id.AR of the assessee it was not issued on the email.id of the assessee. The CIT(A) has partly allowed the appeal of the assessee. The assessee has raised legal issue before us first time and respectfully following the Hon'ble Apex Court judgment in the case of National Thermal Power Company Ltd., 229 ITR, 383, we admit the additional grounds raised by the assessee. Since the CIT(A) has passed order ex parte, in the interest of justice, we remit the legal issue as well as on merits to the file of the CIT(Appeals) for decision as per law, after giving

reasonable opportunity of being heard to the assessee. The assessee is directed to produce the necessary documents for substantiating the case and to avoid unnecessary adjournments for early disposal of the case and update the email, mobile No. and address for communication.

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

Order pronounced on the 17th day of April, 2024 in the open court.

Sd/-
(GEORGE GEORGE K)
Vice President

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Bangalore,
Dated : 17.04.2024.
Vms

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