

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

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.474/Bang/2024
Assessment Year : 2013-14

Hasan Basir Aliabba, #2/81, Zohra Cottage, Karambar House, P.O Bajpe, Bajpe, Mangaluru-574 142. PAN – AQOPA 8146 K	Vs.	1) The Income Tax Officer, Ward-2(1), Mangaluru. 2) Addl./Joint/Deputy/Asst. Commissioner of Income Tax/ITO, Delhi.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Sunaiana Bhatia, Advocate
Revenue by	:	Shri D.K Mishra, CIT (DR)

Date of hearing	:	18.04.2024
Date of Pronouncement	:	19.04.2024

ORDER

PER : WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order passed by the National Faceless Appeal Centre (NFAC), New Delhi dated 29/12/2022 in DIN No. ITBA/NFAC/S/250/2022-23/1048335293(1) for the assessment year 2013-14.

2. At the outset, we note that the assessee neither appeared during the assessment proceedings nor appellate proceedings despite the fact that the notices were issued upon the assessee intimating the date of hearing. Thus, it appears that the assessee is negligent and non-serious person in

pursuing his matter. But before we draw any adverse inference against the assessee, we find important to highlight to certain facts narrated below:

1) When the case was picked up for income escaping proceedings u/s 147 of the Act and when it came to be concluded, the COVID 19 was at its peak. The case was selected for income escaping assessment by issuing notice u/s 148 of the Act dated 20/12/2020 and the assessment was completed vide order dated 28/09/2021.

2) The appeal was instituted before the Id. CIT(A) on 18/12/2021 but four notices were issued for the hearing between the period from 23/11/2022 to 16/12/2022 and the order was passed dated 29/12/2022. Thus, it appears that 4 notices were issued in a period of less than 1 month.

3. The assessee in the ground of appeal before the Id. CIT(A) has clearly intimated that he has paid stamp duty charges and registration charges amounting to Rs. 1,13,050/- and Rs.13,810/- respectively but no cognizance was taken by the Id. CIT(A).

4. In the ground of appeal, the assessee claimed that there was improvement cost incurred on the property amounting to Rs.14,46,860/- only. But there was no action taken by the Id. CIT(A) either by conducting necessary enquiries or by taking remand report from the AO or by deputing the Inspector for the inspection.

3. Admittedly, the primary onus lies upon the assessee to justify his stand basing on materials. But in the event, if he does not co-operate, then it does not mean that the arbitrary additions can be made to the income of the assessee. As such, the Hon'ble Courts time and again have held that income of the assessee should be decided in scientific manner and within the provision of law.

4. Considering all the facts discussed above, we find that the assessee has some merit in his case, which in our considered view should not be thrown away on technical counts. Thus, in the interest of justice and fair play, we are inclined to grant one more opportunity to the assessee to place his case before the AO. It is also directed that the assessee shall cooperate during the proceedings before the AO, otherwise the AO will be at his liberty to decide the issue in the light of the above discussion and as per the provisions of law. Hence, the ground of the assessee is allowed for statistical purposes.

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

Order pronounced in court on 19th day of April, 2024

Sd/-

(BEENA PILLAI)
Judicial Member

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore,
Dated, 19th April, 2024
/ vms /

Copy to:

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