

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE JUSTICE (RETD.) C.V. BHADANG, PRESIDENT AND
SHRI R.K. PANDA, VICE PRESIDENT

ITA no.48/Nag./2024
(Assessment Year : 2016-17)

Shri Dilip Jaikumar Chandak
Opp. Girls High School Chowk
Camp, Amravati 446 602
PAN – AAPPC7275C

..... Appellant

v/s

Income Tax Officer
Ward-1, Amravati

..... Respondent

Assessee by : Shri Manoj G. Moryani a/w
Shri Bhavesh Moryani
Revenue by : Shri Abhay Y. Maratha

Date of Hearing – 30.04.2024

Date of Order – 30/04/2024

ORDER

PER R.K. PANDA, VICE PRESIDENT

The instant appeal has been filed by the assessee challenging the impugned order dated 29/12/2023, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*the learned CIT(A)*"], for the assessment year 2016-17.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the ex-parte order passed by the learned

CIT(A) confirming the addition of ₹ 75,02,140, made by the Assessing Officer.

3. Facts of the case in brief are that, the assessee is an individual and filed his return of income on 14/03/2017, declaring total income of ₹ 4,19,140. The assessee sold a plot at Amaravathi for a consideration of ₹ 4,40,00,000, and offered the long term capital gains to tax. The case was selected for scrutiny and it was noticed that the assessee, based on the report of a registered valuer, adopted the cost of acquisition of the property as on 01/04/1981 at ₹ 7,99,000 and computed the capital gains. The Assessing Officer was not satisfied with the value of cost of acquisition adopted by the assessee and referred the matter to valuation officer (DVO) to determine the fair market value of the property as on 01/04/1981. The A.O. considering the statutory limitation of time, passed the assessment order u/s 143(3) on 24/12/2018 without waiting for the valuation report from the DVO.

4. The DVO, vide order dated 29.04.2019, determined the fair market value of the property as on 01/04/1981 at ₹ 1,05,000 as against the value of ₹ 7,99,000 adopted by the assessee. Consequently, the A.O. rectified the order passed under section 143(3) in terms of section 155(15) by adopting the fair market value determined by the DVO and reduced the indexed cost of acquisition of the property from ₹ 86,37,190 adopted by the assessee to ₹ 11,35,050 resulting in addition of ₹ 75,02,140 on account of long-term capital gains. In appeal, the learned CIT(A) dismissed the appeal filed by the assessee.

5. The learned Counsel for the assessee, at the time of hearing, submitted that though the assessee had filed adjournment application, however, the learned CIT(A) rejected the same and passed the ex-parte order sustaining the addition made by the Assessing Officer. The learned Counsel for the assessee submitted that in the interest of justice the assessee should be given an opportunity to substantiate his case.

6. The learned D.R. strongly opposed the submissions made by the learned Counsel for the assessee and submitted that despite a number of opportunity granted by the learned CIT(A), the assessee did not appear before him, therefore, the order of the learned CIT(A) be upheld.

7. We have heard the rival arguments made by both the sides and perused the material available on record. It is an admitted fact that the assessee has received notice issued by the learned CIT(A), however, the assessee filed adjournment application which was rejected by the learned CIT(A) which resulted in passing of the ex-parte order. Considering the totality of the facts of the case and in the interest of justice, we deem it fit and proper to restore the issue to the file of the learned CIT(A) with a direction to grant an opportunity to the assessee to substantiate his case by filing the requisite details and to decide the issue as per fact and law. The assessee is also hereby directed to appear before learned CIT(A) on the appointed date without seeking any adjournment under any pretext failing which the learned CIT(A) is at liberty to pass appropriate order as

per law. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open Court on 30/04/2024

Sd/-
JUSTICE (RETD.) C.V. BHADANG
PRESIDENT

Sd/-
R.K. PANDA
VICE PRESIDENT

NAGPUR, DATED: 30/04/2024

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

By Order

Sr. Private Secretary
ITAT, Nagpur