

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI "G" BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

**ITA No.3775/Del/2023  
[Assessment Year : 2012-13]**

Sunita Tyagi, R-7/120, Raj Nagar, Ghaziabad, Uttar Pradesh-201002. <b>PAN-AAUPT3785H</b>	vs	ITO, Ward-2(2)(3), Ghaziabad.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Sahil Sharma, Adv & Shri Sanjay Parashar, Adv.	
<b>Respondent by</b>	Shri Gurpreet Singh, Sr. DR	
<b>Date of Hearing</b>	16.05.2024	
<b>Date of Pronouncement</b>	28.05.2024	

**ORDER**

**PER KUL BHARAT, JM**

The present appeal filed by the assessee is directed against the order passed by Ld. CIT(A), National Faceless Appeal Centre ("NFAC"), Delhi dated 30.11.2023 for the assessment year 2012-13. The assessee has raised following grounds of appeal:-

1. *"That on the facts and circumstances of the case and in law, the impugned order passed by the Ld. Assessing Officer ("A.O.") u/s 144 r.w.s 147 of the Income Tax Act, 1961 ("the Act") imposing an addition of Rs.47,80,000/- as unexplained investment is arbitrary, bad in law and liable to be quashed.*
2. *That on the facts and circumstances of the case and in law, that reasons to believe are based on sole reliance on the AIR information under borrowed satisfaction, and based upon incorrect factual context without any independent examination/satisfaction by the Ld. A.O., rendering the income escaping assessment proceedings legally void.*

3. *That on the facts and circumstances of the case and in law, the verification letter dated 22.02.2019 issued under section 133(6) is legally invalid, as it lacked the necessary approval of the competent authority, and hence the findings of the Ld. A.O. vide reasons to believe based are legally flawed.*
4. *That on the facts and circumstances of the case and in law, the approval granted under Section 151 of the Act, was not in due accordance with law, as the said approval was issued in a mechanical manner without independent application of mind, and hence the income escaping assessment proceedings are legally void.*
5. *Without prejudice, that on the facts and circumstances of the case and in law, the Ld. A.O. erred in passing an ex-parte assessment order, as the Appellant possessed adequate funds for the purchase of the immovable property, rendering the impugned addition of Rs.47,80,000/- as unexplained investment unwarranted and liable to be quashed.*

*The Appellant craves leave to add, delete, modify or vary any of the grounds of appeal at any time during the pendency of the appeal or at the time of hearing.”*

2. Facts in brief are that the Assessing Officer [“AO”] on the basis of information received regarding purchase of immovable property jointly by the assessee, re-opened the assessment when there was no response in pursuance of notice issued u/s 148 of the Income Tax Act, 1961 [“the Act”], proceeded to make addition of INR 47,80,000/- as unexplained investment and assessed the income of the assessee at INR 61,77,440/-.

3. Aggrieved against this, the assessee carried the matter before Ld.CIT(A), who after considering the submissions, dismissed the appeal of the assessee on the ground that the assessee failed to substantiate her claim.

4. Aggrieved against the order of Ld.CIT(A), the assessee is in appeal before this Tribunal.

5. Apropos to the grounds of appeal, Ld. Counsel for the assessee vehemently argued that authorities below failed to appreciate the facts in right perspective. He submitted that the assessee had filed written submission before Ld.CIT(A) and an application dated 12.04.2021 was filed for admission of additional evidences. He further submitted that the assessment could not have been re-opened as the satisfaction is borrowed. He submitted that merely on the basis of AIR information, the AO is not justified in re-opening the assessment. He further submitted that the assessee had duly explained the source of investment. The assessee had obtained loan and the payment was made through banking channel. The loan was obtained from one Ms. Numoli Dulam Kaldan, Proprietor of M/s. Ganpati Construction. Therefore, he submitted that it is not the case where the source of investment was unexplained. The lower authorities have grossly erred in making the addition, the same deserves to be deleted. In support to the contention that application seeking admission of additional evidences was filed, Ld. Counsel for the assessee has taken us through Paper Book Page 24 and also various pages which have been filed to support claim that the investment was made out of explained source.

6. On the other hand, Ld. Sr. DR for the Revenue opposed these submissions and supported the orders of the authorities below. He submitted that the assessee was given sufficient opportunity by the Assessing Authority but the assessee failed to avail such opportunity and did not file the supporting

evidences. Under these facts, the action of the lower authorities is justified. The assessee cannot be allowed to take benefit of its own negligence.

7. We have heard Ld. Authorized Representatives of the parties and perused the material available on record and gone through the orders of the authorities below. We find that Ld.CIT(A) dismissed the appeal of the assessee by observing as under:-

5.3. *“Ground No's.4 to 7: In these grounds of appeal, the appellant has contested against the addition of Rs.47,80,000/- as well as the completion of assessment order u/s 144 r.w.s. 147 of the I.T. Act. On verification of the assessment order, it is found the appellant has not complied with the Notice u/s 148 of the I.T. Act. Similarly, the appellant has not explained the sources for investment in purchase of property for appellant's share of Rs.47,80,000/- during the assessment proceedings despite multiple opportunities were provided by the AO. As the AO has adhered to the principles of natural justice by providing multiple opportunities to the appellant to explain her case, it cannot be said that the assessment order was passed without providing proper opportunity of being heard. Regarding the investment in purchase of property, the appellant has not submitted details of her sources along with documentary evidence even in the appellate proceedings despite multiple opportunities were provided through notices u/s 250 of the I.T. Act. The appellant has not substantiated with any documentary evidence about her ground of appeal regarding the wrong figures of investments as claimed in the grounds of appeal. Throughout the appellate proceedings, the appellant was afforded sufficient opportunities to present her case. Despite giving chances to furnish ground wise submissions along with supporting documents, the appellant did not provide any documentary evidence regarding the sources for the investment in purchase of property during the*

*financial year relevant to the AY 2012-13. Consequently, the appeal on these grounds is dismissed.”*

8. From the above finding of Ld.CIT(A), it is evident that the appeal of the assessee was dismissed for want of supporting evidences. However, Ld. Counsel for the assessee has brought to our notice that various objections were taken by the assessee and an application seeking admission of additional evidences was filed vide application dated 12.04.2021. The assessee had also filed various documents, disclosing the creditworthiness of the creditor who had advanced loan to the assessee. Under these facts, we are of the considered view that the Ld.CIT(A) ought to have been adverted to the submissions of the assessee and also decided the application filed by the assessee for admission of additional evidences. From the evidences so filed, we find *prima facie* case. Therefore, considering the totality of the facts, the order of Ld.CIT(A) is hereby set aside and the issues are restored to the file of Ld. CIT(A) to decide by way of a speaking order after affording a reasonable opportunity of being heard to the assessee. Grounds raised by the assessee are accordingly, allowed for statistical purposes.

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

Order pronounced in the open Court on 28<sup>th</sup> May, 2024.

**Sd/-**

**(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER**

**Sd/-**

**(KUL BHARAT)  
JUDICIAL MEMBER**

\* Amit Kumar \*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI