

IN THE INCOME TAX APPELLATE TRIBUNAL, "F" BENCH
MUMBAI
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA. No. 188/MUM/2024
(A.Y.2012-13)

Yasmin Sabir Ali, Flat No. 1301, 13 th Floor, Crown Place Bldg, 23 rd Road, Bandra (West). Mumbai-400050.	Vs .	ITO- 23(3)(5), Piramal Chamber, Lalbaug, Parel Mumbai-400012.
PAN/GIR No. ADXPA4928P		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	Shri. Bhanu Pratap Singh.AR
Revenue by	Ms. Rajeshwari Menon, Sr. DR

सुनवाई की तारीख/Date of Hearing	22.05.2024
घोषणा की तारीख/Date of Pronouncement	28.05.2024

ORDER

PER PAVAN KUMAR GADALE, JM:

The assessee has filed the appeal against the order of the National Faceless Appeal Centre, Delhi /CIT(A) passed u/sec 144 and u/sec 250 of the Act. The Assessee has raised the following grounds of appeal:-

- 1) AO erred in making addition of sale of property of amount 2200000.
2. AO erred in making addition of purchase of property of amount 7905400/- unexplained investment of whole amount.

3. Credit as per 26AS income addition of renting of property amount 506435.

2. The brief facts of the case are that, the assessee has filed the return of income for the A.Y 2012-13 on 22.03.2013 disclosing a total income of Rs.6,85,670/-. The Assessing Officer(AO) has received the information from Individual Transaction Statement (ITS) for F.Y 2011-12 that the assessee has sold immovable property of Rs. 22 lakhs and purchased immovable property of Rs. 79,03,400/- and credits as per 26AS of ITS are Rs. 9 lakhs. Therefore the AO after recording the reasons for reopening has issued notice u/sec 148 of the Act. Subsequently notice u/sec 143(2) and U/sec 142(1) of the Act along with questionnaire was issued. Since there was no compliance to the notices by the assessee and no information was submitted. The AO relied on the information available on record and invoked the provisions of Sec. 144 of the Act and has made best judgment assessment by making addition of (i) sale value of property of Rs. 22 lakhs (ii) purchase of property of Rs. 79,03,400/- and (iii) unexplained credits of Rs. 5,06,435/- and assessed the total income of Rs.1,12,95,510/- and passed the order u/sec 144 r.w.s 147 of the Act dated 29.11.2018.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the

AO and has issued notices of hearing and since there was no compliance by the assessee to notices. Therefore the CIT(A) considering the information on record has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the Assessing officer overlooking the information of the assessment proceedings. Further the assessee has a good case on merits and shall substantiate with the material evidences and prayed for an opportunity to explain before the lower authorities. Per Contra, the Ld.DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no compliance nor appearance in spite of providing adequate opportunity of hearing and the notices were issued. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. The CIT(A) has issued the notices of hearing on 28.01.2021, 02.08.2023, 25.08.2023, 22.09.2023, 04.10.2023 & 19.10.2023 referred at Page 3 Para 4 of the order but there was no response and thus the Ld.CIT(A) came to a conclusion that the assessee is not interested and decided

the appeal based on the information available on record. Whereas the assessee has raised grounds of appeal challenging the additions by the A.O and there could be various reasons for non appearance which cannot be overruled. Therefore, considering the facts and principles of natural justice, we shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of the Appeal. Accordingly, we allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 28.05.2024.

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated: 28/05/2024

KRK.PS

Copy of the Order forwarded to:

1. The Appellant,
2. The Respondent
3. The CIT(A)-

4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,
(Dy./Asstt. Registrar)ITAT,

Mumbai