

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

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

ITA No.210/Del/2024, A.Y.2011-12)

Shakuntala Sharma 309, Karkardooma Village, Delhi, 110092 PAN: CNKPS9748E	Vs.	ITO, Ward 2(3), Ghaziabad
(Appellant)		(Respondent)

Appellant by	Sh. Akhilesh Kumar, Adv.
Respondent by	Sh. Anuj Garg, Sr. DR

Date of Hearing	25/04/2024
Date of Pronouncement	30/05/2024

ORDER

PER AVDHESH KUMAR MISHRA, AM

This appeal preferred by the Assessee is against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), New Delhi [In Short 'the CIT(A)'] on 17.10.2023.

2. The appellant-assessee vide four grounds of appeal had challenged the impugned appellate *ex parte* order of the CIT(A) being against the principle of natural justice as proper opportunities of being heard were never provided by the CIT(A). Further, the justification for issuance of notice u/s 148 of the Income Tax Act, 1961 [In short 'the Act'] by non-jurisdictional authority and quantum of addition upheld by the CIT(A) were also challenged.

3. The relevant facts, in brief, are that the appellant-assessee's case was reopened u/s 147 of the Act based on the information that the appellant-assessee who sold three immovable properties, as one of the co-owners, valued aggregating to Rs. 17,76,45,800/- during the relevant year had not offered the capital gains derived therefrom. During the course of initial assessment proceedings, the appellant-assessee complied to the statutory notices from time to time as detailed in para 1 and 2 of the assessment order. However, in the later assessment proceedings in November, 2018, the appellant-assessee did not ensure compliance to the notice on 30.11.2018 even after seeking adjournment on 22.11.2018.

Consequentially, the Assessing Officer completed the assessment *ex parte*. As per para 3 of the assessment order, it is evident that the appellant-assessee failed to furnish any corroboratory evidence in support of her claim of deduction u/s 54F of the Act and circle rate of the properties under reference. Hence, the Assessing Officer computed the capital gains arisen on the sale of the properties and enhanced the income by Rs.2,19,49,986/-. Aggrieved, the appellant-assessee filed appeal, which was dismissed by the CIT(A) due to non-prosecution. Hence, this appeal is before us.

4. The Ld. AR submitted that the case should be remanded back to the Assessing Officer for making assessment *de novo*. Therefore, the case was not heard on merit and legal issue raised in the appeal.

5. The ld. DR, placing reliance on the assessment order and the appellate order, argued the case for upholding of the finding of the subordinate authorities.

6. We have heard both the parties at length. We have considered the facts of the case in entirety and perused the orders of the

subordinate authorities. We are of the considered view that the case of the appellant-assessee is fit for remitting back to the Assessing Officer for passing the assessment order de novo after affording reasonable opportunities of being heard. We are refraining from commenting on merit and legal issue of the case.

7. In view of the above, the appeal of the assessee is restored back to the file of the Assessing Officer and thus, the same is allowed for statistical purposes.

Order pronounced in open Court on 30 May, 2024

Sd/-

(VIKAS AWASTHY)
JUDICIAL MEMBER

Sd/-

(AVDHESHKUMAR MISHRA)
ACCOUNTANT MEMBER

Dated: 30/ 05/2024

Binita, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI