

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "SMC", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER  
AND  
SMT. RENU JAUHARI, ACCOUNTANT MEMBER**

**ITA No.17/M/2024  
Assessment Year: 2014-15**

<b>M/s. Khodiyar Builders Private Limited,</b> 402, Saiya House, Masjid Bunder, Mumbai – 400 002 <b>PAN: AADCK2901Q</b>	Vs.	<b>Income Tax Officer- 4(2)(4),</b> Aayakar Bhavan, Maharshi Karve Road, Mumbai- 400 020
(Appellant)		(Respondent)

**Present for:**

Assessee by : None  
Revenue by : Shri C.T. Mathews, Sr. DR

Date of Hearing : 21 . 05 . 2024

Date of Pronouncement : 30 . 05 . 2024

**O R D E R**

**Per : Narender Kumar Choudhry, Judicial Member:**

This appeal has been preferred by the assessee against the order dated 03.11.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2014-15.

**2.** In the instant case, the Assessing Officer (AO) vide assessment order dated 26.12.2018 under section 143(3) read with section 147 of the Act made the addition of Rs.38,95,000/- under section 43CA of the Act and added the same to the total income of the assessee.

**3.** The assessee, being aggrieved, challenged the said addition before the Ld. Commissioner, however, in spite of sending various notices the assessee neither appeared nor filed any document. Therefore, in the constrained circumstances, the Ld. Commissioner decided the appeal filed by the assessee as ex-parte and based on the material available on record ultimately declined to interfere in the order of the AO.

**4.** The assessee, being aggrieved, challenged the impugned order before us, however, in spite of sending notice to the assessee through speed post with RPAD/e-mail it neither appeared nor filed any adjournment, hence we, in the constrained circumstances, are inclined to decide this appeal as ex-parte.

**5.** We have given thoughtful considerations to the peculiar facts and circumstances of the case and observe that the

assessee in the instant case has received consideration amount of Rs.1,26,25,000/- on the sale of three properties as against stamp duty value of Rs.1,65,20,000/- and therefore the differential amount of Rs.38,95,000/- (Rs.1,65,20,000/- - Rs.1,26,25,000/-) was added to the total income of the assessee under section 43CA of the Act. The assessee before the Ld. Commissioner, though filed its appeal, however, neither filed any written submissions/information/documents nor made any compliance, therefore the Ld. Commissioner by presuming that the assessee had nothing to say in the matter, ultimately dismissed the appeal of the assessee.

**6.** We have given thoughtful considerations again to the orders passed by the authorities below. As the Ld. Commissioner, in the absence of submissions/information/documents, was constrained to decide the appeal filed by the assessee on the basis of documents available on record and the findings given by the AO. We otherwise do not find any reason/material contrary to the findings arrived at by the Ld. Commissioner, hence we are inclined not to interfere in the impugned order, as the same does not suffer from any perversity, impropriety and/or illegality. Consequently, the appeal filed by the assessee deserves dismissal.

**7.** In the result, the appeal filed by the assessee stands dismissed.

**Order pronounced in the open court on 30.05.2024.**

**Sd/-  
(RENU JAUHARI)  
ACCOUNTANT MEMBER**

**Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER**

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.