

**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No. 669/Bang/2024
Assessment Year : 2021-22

Shri Muniswamappa Manjunath, No. 29, Vanasiri, Vadrapalya, Gottegere, Bangalore – 560 083. PAN: ADEPM1733D	Vs.	The Income Tax Officer, Ward – 4(3)(3), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri H. Guruswamy, ITP
Revenue by	:	Shri V. Parithivel, JCIT –DR

Date of Hearing	:	15-05-2024
Date of Pronouncement	:	06-06-2024

ORDER

PER KESHAV DUBEY, JUDICIAL MEMBER

This appeal at the instance of the assessee is directed against the CIT(A)/NFAC order dated 12.02.2024 vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1060796573(1) passed u/s. 250 of the IT Act, 1961 for A.Y. 2021-22.

2. The assessee has raised the following grounds.

<i>Grounds of Appeal</i>		<i>Tax effect relating to each Ground of appeal (see note below)</i>
1.	<i>The impugned Ex-parte Appellate Order u/s. 250 of the Act dated: 12-02-2024 passed by the Ld. CIT(A), National Faceless Appeal Centre, Delhi is opposed to law, facts and circumstances of the case.</i>	<i>Rs.84,84,092/-</i>
2.	<i>The Ld. CIT(A) has erred in passing the appellate order ex-parte confirming the addition made by the A.O. amounting to Rs.3,76,47,854/- without appreciating the merits of the case based on documentary evidence</i>	<i>Rs.84,84,092/-</i>
3.	<i>The Ld. CIT(A) has erred in confirming the addition of Rs.3,76,47,854/- made by the A.O. arbitrarily without considering the admissible deduction claimed u/s 54 of the Act before the A.O. in the course of the assessment proceedings as a result of which the appellate order was not based on merits and documents of the case.</i>	<i>Rs.84,84,092/-</i>
4.	<i>The Ld. CIT(A) has erred in passing the impugned appellate order without providing sufficient and adequate opportunity to the appellant for filing the Written Submissions supported by relevant documents.</i>	<i>Rs.84,84,092/-</i>
5.	<i>The Appellant craves leave to add, alter, amend and delete any of the grounds at the time of hearing.</i>	<i>-</i>
<i>Total tax effect (see note below)</i>		<i>Rs.84,84,092/-</i>

3. The brief facts of the case are that as submitted by the Ld.AR, the Assessee is an agriculturist and during the F.y 2019-20 relevant for the A.Y 2020-21, the assessee has earned income

from the sources of sale of agricultural products, rental income, interest and other income. The assessee had originally filed the return of income for the A.Y. 2021-22 in form no. ITR – 2 dated 19.12.2021 declaring a total income of Rs.20,41,740/- and paid the total tax of Rs. 4,39,423/- thereon. The assessee's case was subsequently selected for scrutiny through CASS due to the following reasons-

<i>Sl.No</i>	<i>Issue</i>	<i>Rationale</i>
a)	<i>Capital Gains Deduction Claimed</i>	<i>The assessee has claimed the benefit of substantial deduction / exemption u/s 54, 54B, 54C, 54D, 54EC, 54EE, 54F, 54G, 54GA, 54GB etc.</i>

4. The Ld.AO observed in his order that in support of the statement of income filed by the appellant during the course of the assessment proceeding furnished only part reply but not produced any supporting documents such as-

- a) Bank statement
- b) Sale deed agreement
- c) Details of new purchased property
- d) Details of transferring of possession right
- e) Details of mode of payment etc.

during the course of assessment proceeding and accordingly, disallowed the entire claim of deduction u/s. 54 of the IT Act, 1961 amounting to Rs.3,19,44,521/- and added back to the total income under the head capital gains. Further, in the absence of non-furnishing of any documentary evidence for sale of rural

agricultural land amounting to Rs.57,03,333/- and due to the want of clarification with regard to the municipal limit, the Ld. AO has further added the entire sale of agricultural land claimed as exempted income as income from capital gain amounting to Rs. 57,03,333/-.

5. Aggrieved by the order of the Ld.AO, the assessee preferred an appeal before the Ld.CIT(A) who has also been pleased to dismissed the appeal by saying “nothing has been submitted by the assessee. The appellant has failed to furnish the requisite proof regarding the exemption claimed u/s. 54 of the IT Act, 1961 nor has provided the evidence regarding the ownership of the property by Hindu Undivided Family (HUF). Additional there is lack of documentation to substantiate the claim that one of the land in question is agriculture in nature without adequate documentation evidence to support these claims, the action taken by the assessing officer stands confirmed.”

6. Aggrieved by the order of the Ld.CIT(A), the assessee is before us.

7. At the time of hearing, both the parties fairly conceded that the Assessment order as well as the order of CIT(A),NFAC are passed without giving reasonable opportunity of being heard to the assessee. Therefore we are of the opinion that in the interest of justice and equity one more opportunity should be given to the Assessee to substantiate his claims and accordingly we remit the entire issue in dispute to the file of Ld.AO for fresh consideration

and to decide the same afresh after giving reasonable opportunity of being heard to the assessee. The assessee shall co-operate with the assessing officer in submitting the requisite documents which would be essential and required by the revenue Authorities for proper adjudication of the case. We clarify that in case of further default, the Assessee shall not be entitled for any leniency.

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

Order pronounced in the open court on 06th June, 2024.

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(KESHAV DUBEY)
Judicial Member

Bangalore,
Dated, the 06th June, 2024.
/MS /

Copy to:

- | | |
|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore