

IN THE INCOME TAX APPELLATE TRIBUNAL ‘F’ BENCH, MUMBAI
BEFORE SHRI B R BASKARAN, AM AND MS. KAVITHA RAJAGOPAL, JM

ITA No.4812/Mum/2023
(Assessment Year: 2014-15)

Vasant Namdeo Karale Sadguru Krupa, Badlapur Kalyan Road, Belawali Gaon, Dist. Thane Pin code-421 503	Vs.	ITO, Ward-2(2) Kalyan
PAN/GIR No. ACGPK 4980 K		
(Assessee)	:	(Respondent)
Assessee by	:	Shri Kumar Kale
Respondent by	:	Ms. Rajeshwari Menon
Date of Hearing	:	07.05.2024
Date of Pronouncement	:	11.06.2024

ORDER

Per Kavitha Rajagopal, JM:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2014-15.

2. The assessee's appeal has challenged the *ex parte* order of the Id. CIT(A) on the grounds of violation of principles of natural justice and has also challenged the disallowance of Rs.5 lacs being the commission income paid towards transfer of land. The assessee has also challenged the disallowance of Rs.37,80,611/- u/s. 54B of the Act and Rs.55 lacs disallowance u/s.54F of the Act.

3. The brief facts are that the assessee is an individual and had not filed his return of income for the year under consideration. The Id. Assessing Officer ('A.O.' for short)

reopened the assessee's case vide notice u/s. 148 of the Act dated 23.11.2017 on the belief that income has escaped assessment for the reason that the assessee along with the two others persons have sold a property situated at Survey No. 51/1, Village-Belavli, Tal-Ambernath, Dist.- Thane for a sale consideration of Rs.4,50,78,500/- and not declared the same. The Id. A.O. then passed the assessment order dated 26.12.2018 u/s. 143(3) r.w.s. 147 of the Act, thereby determining the total income at Rs.1,25,85,141/-.

4. The assessee was in appeal before the first appellate authority, challenging the assessment order.

5. The Id. CIT(A) vide order dated 19.07.2023, upheld the order of the Id.A.O. for the reason that inspite of several opportunity the assessee has failed to substantiate his claim and has been non compliant.

6. The assessee is in appeal before us, challenging the impugned order of the Id. CIT(A).

7. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee has challenged the additions made by the Id. A.O. before the first appellate authority but has been non compliant throughout the appellate proceeding.

8. The learned Authorised Representative ('Id. AR' for short) for the assessee contended that the assessee has got a good case on the merits and prayed that the assessee may be given one more opportunity to present his case before the Id. CIT(A).

9. The learned Departmental Representative ('ld.DR' for short) vehemently opposed to setting aside the issue to the file of the ld. CIT(A) for the reason that the assessee was given several opportunity by the ld. CIT(A) which was not availed by the assessee.

10. On the above factual matrix of the case, we are of the considered view that the assessee may be given one more opportunity to present his case before the first appellate authority by adhering to the principles of natural justice. We, therefore, remand all these issues back to the file of the ld. CIT(A) for *de novo* adjudication. The assessee is directed to comply with the proceedings without any undue delay on his side.

11. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 11.06.2024

Sd/-

(B R Baskaran)
Accountant Member

Mumbai; Dated : 11.06.2024

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

Sd/-

(Kavitha Rajagopal)
Judicial Member

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai