

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER**

**ITA No.781/PUN/2024
Assessment Year : 2011-12**

Usha Ashok Sakure Flat No.101 R2, Tower No.9, Amanora Park Tower, Hadapsar, Pune – 410028	Vs.	ITO, Ward-14(2), Pune
PAN : BXFPS9914J		
(Appellant)		(Respondent)

Assessee by : Shri Digambar Surwase
Department by : Shri Sourabh Nayak, Addl.CIT
Date of hearing : 12-06-2024
Date of pronouncement : 13-06-2024

ORDER

PER R. K. PANDA, VP :

This appeal filed by the assessee is directed against the order dated 02.05.2023 of the CIT(A) / NFAC, Delhi relating to assessment year 2011-12.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the *ex-parte* order of CIT(A) / NFAC confirming the order of the Assessing Officer in determining the taxable income of the assessee at Rs.2,55,45,870/- which includes long term capital gain of Rs.1,27,88,100/-.

3. There is a delay of 22 days in filing of this appeal before the Tribunal, for which the assessee has filed a condonation application along with an affidavit

explaining the reasons for such delay which is due to the receipt of the appeal in the e-mail of assessee's son. Since the assessee is a senior citizen and is not conversant with the technology, the e-mail of the son was given who could not inform the assessee regarding the receipt of the order of the CIT(A) / NFAC in his mail. Relying on various decisions, he submitted that the delay in filing of the appeal be condoned.

4. After going through the contents of the condonation application filed along with the affidavit and after hearing both the sides, the delay in filing of the appeal is condoned and the appeal is admitted for adjudication.

5. Facts of the case, in brief, are that the assessee is an individual and had not filed his return of income for the impugned assessment year. It was seen that the assessee along with other co-owners has sold an immovable property for a consideration of Rs.5,52,56,350/- and purchased an immovable property worth Rs.2,17,90,076/-. The Assessing Officer, therefore, after recording reasons, reopened the assessment u/s 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') and thereafter issued notice issued u/s 148 of the Act. However, the assessee did not respond to the notice u/s 148 of the Act for which the Assessing Officer issued notice u/s 142(1) of the Act calling for the relevant details. However, despite granting number of opportunities, there was no response from the side of the assessee. Thereafter, the Assessing Officer issued Summons u/s 131 of the Act. Still there was no compliance. In view of the persistent non-

compliance of the assessee to the statutory notices issued, the Assessing Officer, in the order passed u/s 144 of the Act, determined the total income of the assessee at Rs.2,55,45,170/- which consists of long term capital gains of Rs.1,27,57,770/- and unexplained investment of Rs.1,27,88,100/-.

6. Since the assessee did not file any details before the CIT(A) / NFAC despite number of opportunities given, the CIT(A) / NFAC, in the *ex-parte* order passed by him, dismissed the appeal filed by the assessee.

7. Aggrieved with such order of CIT(A) / NFAC, the assessee is in appeal before the Tribunal.

8. The Ld. Counsel for the assessee submitted that the assessee is a senior citizen and is not well conversant with the intricacies of the tax litigation. He earnestly requested that one final opportunity may be given to the assessee to substantiate his case.

9. The Ld. DR on the other hand drew the attention of the Bench to the various notices issued by the Assessing Officer as well as the CIT(A) / NFAC and submitted that despite adequate opportunities granted by the lower authorities, the assessee did not bother to file any submission, therefore, the order of CIT(A) / NFAC be upheld.

10. We have heard the rival arguments made by both the sides and perused the record. We find the CIT(A) / NFAC has issued only two notices to the assessee i.e. one on 23.11.2023 and the other one on 04.12.2023 and thereafter passed the *ex-parte* order on 24.01.2024. Considering the totality of the facts of the case and considering the fact that the assessee is a senior citizen, we deem it proper to restore the issue to the file of CIT(A) / NFAC with a direction to grant one more opportunity to the assessee to substantiate his case by filing the requisite details and decide the issue as per fact and law. The assessee is also hereby directed to respond to the statutory notices issued by the office of the CIT(A) / NFAC and file his submissions, if any, on the date of hearing without seeking any adjournment under any pretext, failing which the CIT(A) / NFAC is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds of appeal raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open Court on 13th June, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(R. K. PANDA)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 13th June, 2024
GCVSR

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'B' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	12.06.2024		Sr. PS/PS
2	Draft placed before author	12.06.2024		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			