

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH: BANGALORE**

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

ITA No.651/Bang/2023
Assessment Year: 2010-11

ITO Ward-4(2)(3) Bangalore	Vs.	Praveen Reddy (HUF) Sri Lakshmi Nivas, 1 st Main Road Doddanekkundi Bangalore 560 037 Karnataka PAN No.AAKHP9377D
APPELLANT		RESPONDENT

Assessee by	:	Sri Prasanna N. Uralal, A.R.
Revenue by	:	Sri Parithivel V., D.R.

Date of Hearing	:	10.06.2024
Date of Pronouncement	:	10.06.2024

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal by revenue is directed against order of NFAC for the assessment year 2010-11 dated 7.7.2023. The revenue has raised following revised grounds of appeal:

- a) *“Whether in the present fact and circumstances of the case, the Ld CIT(A) did not err in ruling that invoking the provisions of section 50 C by the assessing officer is unwarranted when there is no discretion for assessing officer to adopt any other value for sale consideration other than assessed by the stamp valuation authority as there was no dispute regarding the fair market value of the land of for the purpose of assessing capital gains.*
- b) *Whether in the present fact and circumstances of the case, the Ld CIT(A) did not err in ruling that assessee is eligible for deduction claimed u/s 54F when no material is placed on records for fulfilling the conditions laid down as per section 54F.*

- c) *Whether in the present fact and circumstances of the case, the Ill. CIT(A) did not err in allowing deduction claimed u/s 54F when assessing officer has placed reliance on rental agreements with flat numbers to show that assessee owns/or have subsequently constructed residential flats other than the new asset within 3 years from date of transfer in contravention to the provisions of section 54 F.*
- d) *Without prejudice to above, whether in the present fact and circumstances of the case, the Ld. CIT(A) did not err in allowing deduction claimed Ids 54F without examining the issue of genuineness of cost of acquisition and cost of construction of new asset for purpose of claiming deduction u/s 54F.”*

2. The revenue also raised additional grounds of appeal as follows:

“Remand report not submitted by AO were not raised in the Grounds of Appeal filed by the Department before ITAT on 06/09/2023. the following Additional Grounds of Appeal against the order of NFAC may also be considered before the next date of hearing

- (i) *“ Whether on the facts and in the circumstances of the case and in laws, the learned CIT(A), NFAC erred in not giving adequate opportunity to AO and get Remand report with his factual findings and observation after detailed examination to verify the Additional evidences submitted under Rule 46A.*
- (ii) *Whether on the facts and in the circumstances of the case and in laws, the learned CIT(A), NFAC erred in finalising the appeal proceedings without obtaining the Remand report called for from the AO with his factual findings and observations after detailed examination of the additional evidences submitted under Rule 46A.*
- (iii) *Whether on the facts and circumstances of the case and in laws, the Learned CIT(A), NFAC erred in not making further efforts to obtain Remand report from the AO (in the light of the fact the Remand report was called for on 29/07/2019 and even after a lapse of nearly 4 years, the report was not sent by the AO) and not providing final opportunity to the incumbent Assessing Officer to examine additional evidences filed by the assessee under Rule 46A and furnish a Remand report with his factual findings and observations instead of finalising the appeal proceedings on his own accord without the report of the Assessing Officer.*
- (iv) *Whether on the facts and circumstances of the case and in the CIT(A), NFAC erred in allowing deductions u/ s 50C and 54F without considering the merits of the case, which is not in accordance with the provisions of section 250(6).”*

2.1 We have heard the both the parties on admission of additional grounds. In our opinion, all the facts are already on record and there is no necessity of investigation of any fresh facts for the purpose of adjudication of above ground. Accordingly, by placing reliance on the judgement of Hon'ble Supreme Court in the case of NTPC Vs. CIT 229 ITR 383 (SC) we inclined to admit the additional grounds for the purpose of adjudication as there was no investigation of any fresh facts otherwise on record and the action of the revenue is bonafide.

3. The NFAC deleted the addition made by ld. AO based on the facts and circumstances of the case and hence, the revenue is in appeal before us against the order of NFAC.

4. We have heard the rival submissions and perused the materials available on record. We are of the opinion that it is appropriate to remit this issue to the file of ld. AO to decide it afresh since the ld. CIT(A) deleted the addition without valid remand report from the ld. AO as explained by the ld. D.R. in his additional grounds as pointed by the ld. AR.

5. In the result, appeal of the revenue is partly allowed for statistical purposes.

Order pronounced in the open court on 10th June, 2024

Sd/-
(Chandra Poojari)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 10th June, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,
ITAT, Bangalore.**