

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No. 1395/DEL/2024
Assessment Year: 2019-20**

Kaushlya Chaudhary, House no. 1708, Sector-4, Gurugram, Haryana-122001.	<u>Vs</u>	Income-tax Officer, Ward-2(2), Gurgaon,
PAN: ADVPC 7649 B		
APPELLANT		RESPONDENT

Assessee represented by	Shri Suraj Bhan Nain, Adv.,
Department represented by	Shri D.K. Srivastav, Sr. DR
Date of hearing	25.07.2024
Date of pronouncement	29.07.2024

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the National Faceless Appeal Centre (NFAC), Delhi, pertaining to the assessment year 2019-20.

The assessee has raised following grounds of appeal:

“1. That having regard to the facts and circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals) has erred in dismissing the appeal on the ground that the appeal was filed late beyond the specified time whereas the appeal was filed within specified time in view of the decision of the Hon'ble Supreme Court in Suo Moto Writ Petition (C) No.

3/2020 (Cognizance for extension of Limitation) order dated 10-01-2022, directing that the period from 23-03-2020 to 28-02-2022 shall be excluded for the purpose of limitation in respect of all judicial and quasi-judicial proceedings and a further limitation period of 90 days from 01-03-2022 shall be available for filing appeal.

2. That having regard to the facts and circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals) has erred in both in law and on facts in confirming the addition of Rs. 2,76,71,650/-, made by the Ld. Assessing Officer under the head "Income from Other Sources" u/s 56 of the Income-tax Act on account of interest u/s 28 of the Land Acquisition Act 1894 of Rs. 2,76,71,650/- received by the appellant during the year, which was part of enhanced compensation for compulsory acquisition of his agricultural land exempt u/s 10(37) of the Income Tax Act 1961.

3. Without prejudice to the Ground No. 2 and without accepting even if it is assumed that interest u/s 28 of the Land Acquisition Act, 1894 is taxable under the head "Income from other sources", the Ld. Assessing Officer erred in not allowing statutory deduction of 50% of the interest u/s 28 of the Land Acquisition Act as provided u/s 57(iv) of the Income Tax Act.

4. That having regard to the facts and circumstances of the case and in law, the Ld Commissioner of Income Tax (Appeals) has erred both in law and on facts in confirming the action of the Ld. Assessing Officer charging interest u/s 234A and u/s 234B of the Income Tax Act 1961.

5. That the appellant craves the leave to add, modify, amend, or delete any of the grounds of appeal at the time of hearing or before decision of appeal.

2. Facts, in brief, are that for A.Y. 2019-20 the assessee filed her income-tax return declaring income from house property at Rs. 83,320/-; income from other sources at Rs. 10,15,361; and exempt income on account of acquisition of agricultural land at Rs. 2,76,71,650/-. The case of the assessee was selected for complete scrutiny. Vide order dated 26.09.2021, the AO completed the assessment u/s 143(3) read with section 144B of the Income-tax Act, 1961 (the "Act") at an income of Rs. 2,87,60,330/- by adding Rs. 2,76,71,650/-, claimed by the assessee

as exempt income earned on acquisition of agricultural land. Aggrieved against this the assessee preferred appeal before the learned CIT(A) who dismissed the appeal on account of delay of 184 days in filing the appeal. Aggrieved, the assessee is in appeal before this Tribunal.

3. Learned counsel for the assessee at the outset submitted that the Hon'ble Supreme Court in suo moto writ petition (C) No. 3/2020 (Cognizance for extension of Limitation), order dated 10.01.2022, has directed that the period from 23.03.2020 to 28.02.2022 would be excluded for the purpose of limitation in regard to all judicial and quasi-judicial proceedings and a further limitation period of 90 days from 01.03.2022 would be available for filing appeal. He submitted that in the present case the assessment order was passed during corona pandemic on 26.09.2021 and the appeal before the First Appellate Authority was filed on 28.04.2022 and the period is also covered within the extended period. He therefore, submitted that in view of the aforesaid decision of the Hon'ble Supreme Court there was no delay in filing the appeal before the First Appellant Authority. He, therefore, submitted that the learned CIT(A) erred in dismissing the assessee's appeal by treating the same as barred by time, without going into the merits of the case. He prayed to set aside order of learned CIT(A) and restore the matter to the file of First Appellate Authority for decision on merits.

4. Learned Sr. DR raised no objection in restoring the matter to the file of learned CIT(Appeals).

5. After hearing the parties we are of the considered opinion that in view of the decision of the Hon'ble Supreme Court in suo moto writ petition (C) No. 3/2020 (supra), the learned CIT(Appeals) was not justified in dismissing the assessee's appeal being barred by time, without discussing the issue on merit. Accordingly,

considering the facts and circumstances of the present case and to sub serve the principles of natural justice, we are constrained to set aside the order of learned CIT(Appeals) and restore the matter to the file of learned CIT(A) for decision afresh on merits after affording adequate opportunity of being heard. Grounds are allowed for statistical purposes.

6. Appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court on 29.07.2024.

Sd/-

(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI