

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC' : NEW DELHI**

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

**ITA No.2045/DEL/2024
(Assessment Year: 2012-13)**

Balbiri,
Ch.No.206-207, Ansal Satyam RDC,
Rajnagar,
Ghaziabad – 201 002 (Uttar Pradesh).

vs.

ITO, Ward 1 (5),
Ghaziabad.

(PAN : AZYPB0944P)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Vipin Garg, Advocate
REVENUE BY : Shri Om Prakash, Sr. DR

Date of Hearing : 25.07.2024
Date of Order : 25.07.2024

ORDER

This appeal by the assessee is directed against the order of the Id. CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated 31.10.2023 for the assessment year 2012-13.

2. Grounds of appeal taken by the assessee read as under :-

“1. Because, order of Id. CIT (Appeals) is bad in law and against the facts and circumstances of the General case.

2. Because, Id. CIT (Appeals) erred in dismissing the appeal ex-party without providing proper opportunity as notice issued on the last date 18.09.2023 was never received by the AR and even assessee could know the order only after visiting portal by AR in April, 24, hence order is without providing proper opportunity of being heard more when order of assessment is also passed ex-party u/s 144 of the Act.

3 Because, ld. CIT (Appeals) failed to appreciate that notwithstanding jurisdictional grounds even on merits assessee had invested almost total sale consideration in purchasing agricultural land in the name of son and daughter in law withdrawing money from her bank a/c which is part of record of AO thus imposition of tax on an illiterate lady of 88 years was a hardship.

4. Because, ld. CIT (Appeals) further erred in adjudicating all the legal/factual grounds summarily, without even allowing any index cost of acquisition and allowing deduction u/s 54B for want of presentation of case without appreciating the fact that assessee is 88 years old illiterate lady having very limited resources who could not get opportunity even before ld. AO thus order is contrary to provisions of section 250 of Act and against rule of fair play.

Therefore, it is very respectfully prayed that this Hon'ble Court may kindly be pleased to quash the orders of ld. lower authorities with the directions as deemed fit.”

3. In this case, Assessing Officer made addition of income from capital gains amounting to Rs.30,00,000/- in an ex-parte order.

4. Upon assessee's appeal, ld. CIT (A) noted that assessee is not interested in prosecution as he has not made any submission before him. Hence, he confirmed the AO's order.

5. Against this order, assessee is in appeal before the ITAT. I have heard both the parties and perused the records.

6. Ld. Counsel for the assessee stated that assessee did not receive the notices, hence he could not make any submission. He prayed that an opportunity may be granted to the assessee to canvass the case properly.

7. Ld. DR for the Revenue did not have any objection to this proposition.

8. Accordingly, in the interest of justice, I remit the issue to the file of AO. AO is directed to pass an order afresh after giving the assessee proper opportunity of being heard.

9. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open court on this 25th day of July, 2024 after the conclusion of the hearing.

**SD/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 25th day of July, 2024
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**