

IN THE INCOME TAX APPELLATE TRIBUNAL, "D" BENCH
MUMBAI
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
MS. PADMAVATHY S, ACCOUNTANT MEMBER

ITA. No. 2729/MUM/2024
(Assessment Year : 2014-15)

Rohit Vijay Soparkar Flat no. 9 2 nd Floor Ramsanket Building, Gabriel Road, Mahim (West), Mumbai-400016.	Vs.	I T O Ward 22(3)(6), Piramal Chambers, Lalbaug, Mumbai- 400012.
PAN/GIR No. AZDPS5976K		
(अपीलार्थी/Applicant)		(प्रत्यर्थी/Respondent)

Assessee by	Shri. Pramod Shingte.AR
Revenue by	Shri. Nayanjyoti Nath. Sr.DR

सुनवाई की तारीख/Date of Hearing	25.07.2024
घोषणा की तारीख/Date of Pronouncement	26.07.2024

ORDER

PER PAVAN KUMAR GADALE, JM:

The assessee has filed the appeal against the National Faceless Appeal Centre, Delhi / CIT(A) Mumbai passed u/sec 147 r.w.s 144B and u/sec 250 of the Act. The assessee has raised the following grounds of appeal:

“1. On the facts and the circumstances of the case and in law, lower authorities erred in passing ex-parte order and erred in deciding the issue only on the basis of material available with them, this action is being violative of

principal of natural justice. Your appellant prays for granting opportunity of hearing before lower authorities.

Without prejudice to the above grounds of appeal, following grounds are also taken on merit:

2. On the facts and the circumstances of the case and in law, The Learned Assessing Officer erred in making an addition of Rs. 55, 20,000 under section 56(2)(vii)(b) (ii) of IT Act. 1961, without referring the matter to the DVO and it is your appellant contention that the prevailing rate in the area during that period was as per actual consideration paid therefore, entire addition deserves to be deleted.

3. On the facts and the circumstances of the case and in law. The Learned Assessing Officer erred considering the entire gross salary as income of appellant without allowing statutory deduction on account of eligible investment and also further, erred in not granting the credit of TDS as per the provisions of law, your appellant prays for the relief as per provisions of law.

Your appellant craves for to add, alter, amend, modify, delete all above or any grounds of appeal before or during the course of hearing in the interest of natural justice.”

2. The brief facts of the case are that, the assessee is an individual. The Assessing Officer (A.O) has received the information as per the ITD system that, the assessee has acquired and sold immovable properties, received salary income from Bajaj Allianz General insurance Co Ltd and made credit card payments during the F.Y 2013-14 and the assessee has not filed the return of income. The assessing officer has reason to believe that the income has escaped assessment and issued notice u/sec148 of the Act and the AO has also issued notice u/se 143(2) and u/sec142(1) of the Act along with the questioner. Whereas the assessee has filed the explanations on the purchase of immovable

properties dealt at Para 7.1 &7.2 of the AO order. Whereas the AO was not satisfied with the explanations with respect to the purchase transactions of immovable properties, there is difference in stamp duty value and actual sale consideration and hence invoked the provisions of Sec. 56(vii)(b)(ii) of the Act and made addition of Rs. 55,20,000/-, similarly the A.O made addition of Rs.10,38,996/- as the assessee has received the salary income and was not disclosed in the return of income and finally has assessed the total income of Rs. 65,59,000/- and passed the order u/sec 147 r.w.s 144B of the Act dated 25.03.2022.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and since there was no proper compliance by the assessee to notices. Therefore the CIT(A) considering the information on record has sustained the additions made by the A.O. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the Assessing officer overlooking the information of the assessment proceedings. Further the assessee has a good case on merits and shall substantiate with the material evidences

and prayed for an opportunity to explain before the lower authorities. Per Contra, the Ld. DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no proper compliance in spite of providing adequate opportunity of hearing and the notices were issued on 16.11.2022, 20.02.2024 & 27.02.2024 but there was no compliance to the notices. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. The Ld. CIT(A) has issued the notices of hearing but there was no due compliance and thus the Ld.CIT(A) came to a conclusion that the assessee is not interested and decided the appeal based on the information available on record. Whereas the assessee has raised grounds of appeal challenging the additions made by the A.O and there could be various reasons for non appearance which cannot be overruled. Therefore, considering the facts and principles of natural justice, we shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in

submitting the information for early disposal of the Appeal. Accordingly, we allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 26.07.2024.

Sd/-
(MS. PADMAVATHY S)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated: 26/07/2024

KRK

Copy of the Order forwarded to:

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,
(Dy./Asstt. Registrar)ITAT,
Mumbai