

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

ITA. No. 2251/MUM/2024
(Assessment Year: 2010-11)

Ryan Louis Dcunha, C/o Kusum Gupta, 903/A, Dheeraj Gaurav Heights 2, New Link Road, Andheri (West), Mumbai-400053.	Vs.	I T O Ward 35(2)(1), Kautilya Bhavan, Bandra Kurla Complex, Bandra (E), Mumbai-400050.
PAN/GIR No. ADFPD3847C		
(अपीलार्थी/Applicant)		(प्रत्यर्थी/Respondent)

Assessee by	Shri. Ashish Thakurdesai.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 144 and u/sec 250 of the Act. The assessee has raised the following grounds of appeal:

"1. On facts, in circumstances of the case and in law, learned CIT-A ought to have held that the re-opening of assessment is bad in law.

2. On facts, in circumstances of the case and in law, learned CIT-A erred in confirming the addition of Rs.59,87,300/- as undisclosed income.

3. On facts, in circumstances of the case and in law, learned CIT-A ought to have deleted interest of Rs. 1,40,096/- u/s 234A and Rs. 16,28,616/- u/s 234B of the Income Tax Act, 1961.

4. The appellant craves leave to add, alter, modify or delete any of the above Grounds of Appeal.”

2. The brief facts of the case are that, the Assessing Officer (A.O) has received the information as per the ITD system that, the assessee has acquired immovable property for a consideration of Rs.59,87,300/- during the F.Y 2010-11 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. Since there was no compliance to the notices, and the assessee could not substantiate with the material information in support of sources. The A,O considering the information available on record, has invoked the provisions of section 144 of the Act and made addition of Rs. 59,87,300/- and passed the order u/sec 144 r.w.s 147 of the Act dated 26.12.2017.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) considered the grounds of appeal, submissions of the assessee and findings of the AO but confirmed the action of the AO and

dismissed the assessee appeal. Aggrieved by the order 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 not considered the evidences of Housing Loan from HDFC Ltd and bank account payments supporting the purchase of the property and has erred in confirming the addition made by the A.O. Further the Ld. AR emphasized that the assessee has good case on merits and prayed for an opportunity to substantiate the case with evidences and information before the lower authorities and relied on the factual paper book. Per Contra, the Ld. DR supported the order of the CIT(A).

5. We heard the rival submissions perused the material on record. The sole matrix of the disputed issue envisaged by the Ld. AR that the CIT(A) has erred in confirming the action of the AO overlooking the written submissions filed along with evidences in support of acquisition of property with the Housing Loan sanctioned by the HDFC Ltd and bank payments from the assessee accounts. The contention of the Ld. AR that the assessee has purchased the property from Housing loan from HDFC Ltd and out of personal savings from salary income. We find the evidences play a important role in decision making in the adjudicating proceedings. Therefore considering the facts, circumstances and evidences, the assessee should not suffer for non filing of material information, as the evidences played vital role in decision making . Accordingly, to meet the ends of justice,

we set aside the order of the CIT(A) and restore the entire disputed issues along with the evidences to the file of the assessing officer to decide afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information. And we allow the grounds of appeal of the assessee for statistical purposes.

6. In the result, 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