

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH  
MUMBAI  
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER  
ITA No. 3095/MUM/2024  
(A.Y.2018-19)

Ashit Gordhanbhai Patel, 44 Vithal Nagar, NS Road, No. 11, JVPD Scheme. Mumbai-400049.	Vs.	Natinal Faceless Assessment Centere, New Delhi.
PAN/GIR No. AAEP6530C		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by	None
Respondent by	Shri Manoj Kumar Sinha, Sr. DR

सुनवाई की तारीख/Date of Hearing	05.08.2024
घोषणा की तारीख/Date of Pronouncement	06.08.2024

**ORDER**

**PER PAVAN KUMAR GADALE, JM:**

The appeal is filed by the assessee against the order of National Faceless Appeal Centre(NFAC), Delhi / CIT(A), Mumbai passed u/sec 143(3) and u/sec 250 of the Act. The assessee has raised the following grounds of appeal:

- i) The Ld. CIT (A) erred in confirming the action of the AO in reducing the sale consideration of each of the two flats by Rs.3,46,000/- being the proportionate value of the furniture, fixtures and fittings included in the sale consideration not appreciating the fact that the same was a capital asset as defined u/s 2 (14) of the Income Tax Act, 1961 thereby not allowing indexation of the same in the computation of long term capital gain on the sale of the flats.*

*(ii) The Ld. CIT(A) erred in confirming the action of the AO in restricting the Indexed cost of improvement to Rs. 6,70,089/- as against a sum of Rs.80,41,031/-claimed in the return of income in respect of each of the flats without appreciating the fact that the loan processing fee and foreclosure charges of Rs.3,21,638/- of each of the flats also constituted cost of improvement and that the appellant had submitted the details of the expenditure of Rs.38,87,968/- incurred on the improvements for each of the two flats by way of bank statements and invoices. The appellant craves leave to add, alter, amend and/or modify any of the above grounds at the time or before the date of hearing.*

2. The brief facts of the case are that, the assessee has filed the return of income for the A.Y 2018-19 on 30.03.2019 disclosing a total income of Rs. Nil after claiming exemption u/sec 54F of the Act. Subsequently, the case was selected under limited scrutiny to examine the Capital Gains deduction claimed and Capital gains / income on sale of property. The Assessing Officer (AO) found that the assessee has sold the properties and purchased residential house and claimed exemption u/sec 54F of the Act. Accordingly the AO has issued notice u/sec 143(2) and u/sec 142(1) of the Act and called for the information in support of purchase and sale of property, bank statement, computation of capital gains and cash flow statement. The AO on perusal of the information has dealt on the facts with respect of purchase of property, cost of improvement, valuation of various items and claim of expenditure, But the AO was not satisfied with the

details and computed the taxable capital gains of Rs.64,04,771/- and assessed the total income of Rs.64,81,093/-/- and passed the order u/sec 143(3) r.w.s 144B of the Act dated 27.09.2021.

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 compliance by the assessee to notices.. Therefore the CIT(A) considering the information on record has confirmed the action of the A.O and dismissed the appeal.

4. At the time of hearing, none appeared on behalf of the assessee. Per Contra, the Ld. DR relied on the order of the CIT(A).

5. We heard the ld. DR submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no compliance nor appearance in spite of providing adequate opportunity of hearing and the notices were issued. 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 on various dates referred at Para 23 of the order but there was no response 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 06.08.2024

Sd/-

Sd/-

**(GIRISH AGRAWAL)**  
**ACCOUNTANT MEMBER**

**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

Mumbai, Dated: 06/08/2024

KRK

**Copy of the Order forwarded to:**

1. The Appellant,
2. The Respondent

ITA No. 3095/MUM/2024  
Ashit Gordhanbhai Patel,  
Mumbai

3. The CIT(A)-
  4. CIT
  5. DR, ITAT, Mumbai
  6. Guard file.
- //True Copy//

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