

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 1100/DEL/2024
Assessment Year: 2013-14

Vaibhav Uppal, A-3/159, Janakpuri, New Delhi-110058	<u>Vs</u>	Income-tax Officer, Ward-49(5), Delhi.
PAN- AAYPU 3493 R		
APPELLANT		RESPONDENT
Appellant by	Ms. Shivangi Kumar, Adv.	
Respondent by	Shri Sanjay Kumar, Sr. DR	
Date of hearing	21.08.2024	
Date of pronouncement	21.08.2024	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned CIT(Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 29.09.2023, pertaining to the assessment year 2013-14. The assessee has raised following grounds of appeal:

“1) The AO has erred in interpreting the agreement. The fact is that the agreement has details of the work to be performed.

2) The AO was made available the gift deed of Rs 20,00,000/- executed by my grandmother to justify from where I received the funds for renovation. It

was also explained during proceedings that how I acquired the flat. But the AO has in erred in ignoring all these facts.

3) The AO has erred in not accepting the agreement on a stamp paper duly notarized by the legal authority. Further the agreement with the contractor was in lump sum and accordingly I was not supposed to purchase any material.

4) That The Ld AO has erred in computing income of Rs.29,13,920/-.

5) That the assessee craves to add, alter and make additions or deleting in the ground of appeal.”

2. Facts, in brief, are that case of assessee was reopened u/s 147 of the Act on receipt of information that during F.Y. 2012-13 relevant to A.Y. 2013-14 assessee had sold immovable property worth Rs. 42,00,000/-. However, the assessee was a non-filer during the relevant period and had not declared capital gain on sale of immovable asset. In response to notice issued u/s 148 of the Act the assessee filed return declaring income of Rs. 1,90,750/-. Subsequently, in response to statutory notices issued by the AO it was submitted on behalf of assessee that he had purchased a flat in F.Y. 2009-10 for Rs. 9,54,000/- and had spent Rs. 27,23,165/- on renovation/improvement of the said flat. As the assessee had not filed ITR for A.Y. 2011-12 to A.Y. 2015-16, the AO show caused the assessee to explain the source of improvement/renovation of the flat. In response it was submitted on behalf of assessee that renovation of flat was carried out from the gift of Rs. 20,00,000/- given to him by his grandmother. Rejecting the explanation furnished by the assessee the AO completed the assessment at Rs. 29,13,915/- by adding Rs. 27,23,165/- by disallowing deduction claimed u/s 48 of the Act for cost of improvement. Aggrieved against it the assessee preferred appeal before the learned CIT(Appeals), who also dismissed the appeal and affirmed the action of learned AO. Aggrieved against it, now the assessee is in appeal before this Tribunal.

3. This appeal is barred by time. There is delay of 103 days in filing the instant appeal. An application seeking condonation of delay has been filed. Learned counsel for the assessee reiterated the submissions as made in the application. Learned DR opposed these submissions and submitted that there is no reasonable cause for condoning the delay.

3.1 I have heard learned representatives of the parties. The reason for delay is stated to be illness of the assessee. For the reasons as stated in the application I am of the view that there was reasonable cause which prevented the assessee from filing the present appeal within limitation. Therefore, delay is condoned and appeal is taken up for adjudication.

4. Learned counsel for the assessee submitted that during F.Y. 2012-13 relevant to A.Y. 2013-14 there being no taxable income no ITR was filed by the assessee. The source of investment in renovation of flat was duly explained by the assessee as gift of Rs. 20,00,000/- given by his grandmother. The AO, without making proper inquiry and without affording adequate opportunity to the assessee to prove his case made the impugned addition. In appeal the learned CIT(Appeals) also dismissed the appeal without affording adequate opportunity to the assessee to adduce supporting material in support of his case. He prayed that orders of authorities may be set aside and the matter may be restored back to the file of AO for assessment de novo after affording reasonable opportunity of being heard to the assessee.

5. On the other hand learned DR supported the orders of authorities below.

6. I have heard rival submissions and perused the material available on record. The stand of the assessee is that during relevant assessment year he had no taxable income and therefore he was not required to file any return of income. In respect of renovation of flat the stand of assessee is that his grandmother had gifted 20,00,000/- in cash which was utilized in renovation of flat. Considering the totality of facts and circumstances of the present case, in order to verify the veracity of assessee's claim and to sub serve the interests of natural justice I hereby set aside the orders of authorities below and restore the matter back to the file of Assessing Officer to make the assessment de novo after verifying the veracity of assessee's claim, of course, after affording adequate opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.

7. In the result, assessee's appeal is allowed for statistical purposes.

Order pronounced in open court on 21st August, 2024.

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