

**IN THE INCOME-TAX APPELLATE TRIBUNAL “SMC” BENCH,  
MUMBAI**

**BEFORE SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER  
&  
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 2126/MUM/2024  
(A.Y. 2011-12)**

Madhumita Das 4F, Capricorn Jewels, 159 Sitalatala Road, Opposite Harendranath Boys School, Sahapur, Kolkata	v/s. बनाम	National Faceless Appeal Centre, Delhi
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: ALXPS8781D</b>		
<b>Appellant/अपीलार्थी</b>	..	<b>Respondent/प्रतिवादी</b>

Appellant by :	Shri Ameya Shenoy
Respondent by :	Shri R. R. Makwana

Date of Hearing	29.07.2024
Date of Pronouncement	27.08.2024

**आदेश / ORDER**

**PER RENU JAUHRI [A.M.] :-**

This appeal is filed by the assessee against the order of the Learned Commissioner of Income-tax (Appeals), Mumbai-34/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] dated 30.01.2024 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for Assessment Year [A.Y.] 2011-12.

2. The assessee has raised following grounds of appeal:

*“1. The Order passed by the learned Commissioner of Income-tax (Appeals) Income Tax Department is unjustified, incorrect and bad in law as the CIT (A) has failed to consider the fact that, the Appellant is*



*only a joint owner of the property as a spouse (Family relation) for convenience purpose and not the real owner.*

*2. Confirmation of Addition to income of Rs.42,01,000/- u/s 50C by the learned Commissioner of Income-tax (Appeals) Income Tax Department is unjustified, bad in law and in total disregard to the provisions of the IT Act as the Appellant had purchased a property during the year in consideration (Not sold). Thus making the addition u/s 50C incorrect and void in its entirety.*

*3. The Order passed by the learned Commissioner of Income-tax (Appeals) Income Tax Department is unjustified, incorrect and bad in law as the CIT (A) has dismissed the appeal reasoning nonpayment of Advance Tax u/s 249(4)(b), which is not applicable in the Appellants case as the Appellant had no taxable income during the year in consideration*

*4. The Order passed by the learned Commissioner of Income-tax (Appeals) Income Tax Department is unjustified, incorrect and bad in law as the CIT (A) has failed to note the fact that the tax liability arose in case of the Appellant only due to the erroneous order passed by the learned AO making a huge and an adhoc addition of Rs.42,01,000/-*

*5. The Appellant craves leave to add, alter or amend the grounds of appeal at the time of final hearing.”*

3. The appeal is filed after a delay of 23 days. The assessee has furnished an application for condonation of delay stating that the assessee was not in possession of original order passed by the AO u/s 144C of the Act. The assessee therefore filed an application requesting for copy of the assessment order before jurisdictional AO on 18.02.2024. However, the same has still not been made available to the assessee. After the waiting for considerable time, the appeal was filed without the original assessment order. In view of the reasons explained by the assessee, we hereby condone the delay of 23 days.

4. Brief facts of the case are that the no return of income was filed by the assessee for the year under consideration. However, an order u/s 144 was



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passed by the AO, after making addition u/s 50C of the Act, demand of Rs. 23,44,100/- was raised. It has been explained by the assessee that she had left Mumbai after retirement of his husband in March, 2013 and shifted to her native place in Kolkata. Hence, the postal communications sent to the old address were not received and even the assessment order has not been received by the assessee till date.

5. Aggrieved with this order, the assessee filed an appeal before Ld. CIT(A)-Mumbai-34 who has dismissed the same on the ground that the assessee was liable to pay advance tax as per the provisions of section 249(4)(b) of the Act. Observing that the assessee had not filed return of income and also not paid the requisite amount of advance tax, the appeal was dismissed as infructuous.

6. Before us, the Ld. AR has explained that no notices including the assessment order were received by the assessee. It was the case of the assessee that the property was purchased by her husband in which her name was only added as co-owner. There was no liability on the assessee to furnish her return of income or pay the tax. She has never filed any return as she had no taxable income all her life. As such, the dismissal of the appeal by Ld. CIT(A) is unjustified.

7. We have considered the rival submissions. In view of the above stated facts, we deem it proper to restore the matter to Ld. CIT(A) for fresh



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examination and decision on merits. The assessee is also directed to comply with the requirements/notices in the proceedings before the Ld. CIT(A).

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 27.08.2024.

**Sd/-**

**SANDEEP SINGH KARHAIL**

**(न्यायिक सदस्य/JUDICIAL MEMBER)**

**Sd/-**

**RENU JAUHRI**

**(लेखाकार सदस्य/ACCOUNTANT MEMBER)**

Place: मुंबई/Mumbai

दिनांक /Date 27.08.2024

अनिकेत सिंह राजपूत/ स्टेनो

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,  
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)**  
**आयकर अपीलीय अधिकरण/ ITAT, Bench,**  
**Mumbai.**