

IN THE INCOME TAX APPELLATE TRIBUNAL, MUMBAI BENCH 'C', MUMBAI

**BEFORE SHRI AMARJIT SINGH, HON'BLE ACCOUNTANT MEMBER
AND SHRI RAHUL CHAUDHARY, HON'BLE JUDICIAL MEMBER**

**ITA No.2785/Mum/2024
Assessment Year: 2013-14**

Praful Parshuram Vaity Rawale, Mahim, Palghar, Thane- 401402, Mumbai PAN: AGTPV 6370 K (Appellant)	vs	ITO-1, Palghar, Mumbai (Respondent)
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Present for:

Assessee by : Shri Ashish A. Thakurdesai
Revenue by : Shri Raj Singh Meel, Sr. DR

Date of Hearing : 27.08.2024

Date of Pronouncement : 23.09.2024

ORDER

PER AMARJIT SINGH, AM:

This appeal of the assessee for the assessment year 2013-14 is directed against the order dated 23.02.2024 passed by the Id. Commissioner of Income-tax (Appeal), NFAC, Delhi. The assessee has raised the following grounds of appeal:

"1. On facts, in circumstances of the case and in law, the learned CIT-A, National Faceless Appeal Centre erred in dismissing the appeal.

2. On facts, in circumstances of the case and in law, the learned CIT-A, National Faceless Appeal Centre ought to have held that reopening assessment of the appellant u/s 147/148 of the Income Tax Act. 1961 is bad in law.

3. On facts, in circumstances of the case and in law, the learned CIT-A, National Faceless Appeal Centre erred in confirming Rs. 72,00,000/- as undisclosed capital gain.

4. On facts, in circumstances of the case and in law, the learned CIT-A, National Faceless Appeal Centre erred in confirming full value of consideration received at amount of Rs. 72,00,000/-.

5. *On facts, in circumstances of the case and in law, the learned CIT-A, National Faceless Appeal Centre ought to have allowed expenditure in Connection with transfer, cost of acquisition and cost of improvement as deduction in computing capital gain.*

6. *On facts, in circumstances of the case and in law the learned CIT-A, National Faceless Appeal Centre ought to have allowed exemption u/s 54B/54F of the Income Tax Act, 1961.*

7. *On facts, in circumstances of the case and in law, the learned CIT-A, National Faceless Appeal Centre erred in confirming addition of Rs. 21,99,000/- as unexplained cash deposit u/s 69A of the Income Tax Act, 1961.*

8. *On facts, in circumstances of the case and in law, the learned CIT-A, National Faceless Appel Centre erred in confirming addition Rs. 40,00,000/- as unexplained investment u/s 69 of the Income Tax Act, 1961.*

9. *On facts, in circumstances of the case and in law, the learned CIT-A, National Faceless Appeal Centre erred in confirming interest u/s 234A & u/s 234B of the Income Tax Act, 1961 amounting to Rs. 32,56,678/- & Rs. 34,24,548/- respectively.*

10. *The appellant craves leave to add, alter, modify or delete any of the above grounds of appeal.”*

2 Fact in brief is that assessee has not filed return of income as required u/s 139(1) of the Act. Therefore, the proceeding u/s 147 of the Act was initiated. After recording reasons a notice u/s 148 of the Act was issued on 18.03.2020. However, the assessee has not made any compliance to the notice issued u/s 148 of the Act. Therefore, the assessment u/s 147 was finalized ex-parte after making addition of Rs. 21,99,000/- on account of unexplained cash deposits u/s 69A of the Act, addition of Rs. 40,00,000/- as unexplained investment in purchase of immovable property and addition of Rs. 72,00,000/- as income from undisclosed capital gain on sale of immovable property u/s 50C of the Act to the total income of the assessee.

3. The assessee filed appeal before the Id. CIT(A). However, the assessee has not made any compliance before the Id. CIT(A), therefore, the appeal of the assessee was dismissed. During the course of appellate proceedings before us, the Id. Counsel submitted that assessee could not make compliance before the Id. CIT(A) because of not receiving of the notices since the notices of hearing were issued on the inactive old e-mail ID of the assessee. Therefore, requested that more opportunity be provided to the assessee at the level of Id. CIT(A) for deciding the appeal of the assessee on merit.

4. Heard both the sides and perused the material on record. Without reiterating the fact as elaborated above in this order, the assessee has not made any compliance to the notice of hearing issued by the Id. CIT(A) therefore the appeal of the assessee was dismissed. Before us, the Id. Counsel submitted that assessee could not made compliance before the Id. CIT(A) as the notice of hearing issued on old e-mail ID of the assessee provided in Form No. 35 as vcv25332378@rediffmail.com whereas assessee's active e-mail ID as provided in Form No. 36 was omkarstone1911@gmail.com. In the light of the above facts and circumstances, we consider it appropriate to restore the case of the assessee to the file of the Id. CIT(A) for adjudication on merit as contemplate u/s 250(6) of the Act after providing three more opportunities of hearing to the assessee. The assessee is directed to update the charges in the e-mail ID to Income Tax Department without any default and also directed to make due compliance before the First Appellate Authority in the set aside proceedings. Accordingly, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 23.09.2024

Sd/-

Sd/-

**(RAHUL CHAUDHARY)
JUDICIAL MEMBER**

**(AMARJIT SINGH)
ACCOUNTANT MEMBER**

Mumbai: 23.09.2024
Biswajit, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:
3. The CIT,
4. The DR .

//True Copy//

By Order

Assistant Registrar
ITAT, Mumbai Benches, Mumbai