

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.490/Ahd/2024
(Assessment Year: 2015-16)

Pareshkumar Patil, At-Sirpur, P.O. Dungri, Hanumantnagar, Himmatnagar, Sabarkantha-383001	Vs.	Income Tax Officer, S.K. Ward-3, Himmatnagar, Sabarkantha
[PAN No.BJKPP0748J]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Tej Shah, A.R.
Respondent by:	Shri Rignesh Das, Sr. DR

Date of Hearing	01.10.2024
Date of Pronouncement	09.10.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax(Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 23.01.2024 passed for A.Y. 2015-16.

2. The Assessee has taken the following grounds of appeal:-

“1. The CIT(A) erred in law and in facts of the case in passing exparte order u/s 250 of the Act.

2. The CIT(A) erred in law and in the facts of the case in confirming the order of the AO in making addition of Rs. 34,77,000/- being unaccounted capital gains upon sale of immovable property.

3. The CIT(A) erred in law and in the facts of the case in confirming the order of the AO in making addition of Rs. 19,50,000/- being investment in immovable property u/s 69C of the act.”

3. The brief facts of the case are that the assessee, an individual filed a return of income on December 29, 2016, declaring a total income of Rs. 5,26,570/- for the assessment year 2015-16. After the return was processed under Section 143(1) of the Income Tax Act (Act), the tax authorities received information concerning the sale of immovable property by the assessee and others. This prompted the reopening of the case, leading to the issuance of a notice under Section 148 of the Act on March 25, 2019. Despite this, the assessee failed to submit a return of income in response to the notice, disclosing the proceeds of the above property in the return of income. Subsequently, multiple notices under Section 142(1) were issued on June 25, 2019, July 10, 2019, and August 8, 2019, but the appellant did not comply with any of these requests. A show cause notice dated December 19, 2019, also went unanswered. In the meantime, a notice under Section 133(6) was sent to the Sub-Registrar on November 28, 2019, seeking transaction details related to the immovable property, which resulted in obtaining sale deed copies from the office of the Sub-Registrar by the A.O. Upon review of the same, the Assessing Officer observed that the assessee received a total sale consideration of Rs. 34,77,000/- from sale of property and made an investment of Rs. 19,50,000/- in the purchase of immovable property during the impugned assessment year. In the absence of any documentation from the assessee regarding these transactions, the sale consideration was added to the total income of the assessee as capital gains, while the investment was deemed unexplained and similarly added to the total income of the assessee by the Assessing Officer.

4. In appeal before Ld. CIT(Appeals), there was a delay in filing of appeal which delay was condoned, and the appeal was admitted. Ld. CIT(Appeals) observed that despite being provided with multiple opportunities, the assessee failed to submit any supporting documents or explanations regarding the additions made by the Assessing Officer. Accordingly, Ld. CIT(Appeals) confirmed the additions made by the AO related to undisclosed capital gains from the sale of immovable property amounting to Rs. 34,77,000/- and unexplained investments of Rs. 19,50,000/-. The assessee argued that the AO did not consider the cost of acquisition and indexation benefits related to the properties sold, and that the claimed investment in the property was lower than what had been recorded. However, Ld. CIT(Appeals) was of the view that in the appeal, the assessee did not file supporting documentation, such as the cost of acquisition and the source of funds for the property purchase. Thus, the appeal of the assessee was dismissed.

5. The assessee is in appeal before us against the aforesaid order passed by Ld. CIT(Appeals) confirming the additions made by the assessing officer. Before us, the counsel for the assessee admitted that there was an apparent lack of cooperation on part of the assessee, both during the course of assessment proceedings as well as before Ld. CIT(Appeals). However, the same was not owing to any mala fide intention but due to the fact that the assessee was staying abroad and it was for this reason that the assessee could not cause appearance before the assessing officer and Ld. CIT(Appeals), leading to ex-parte adjudication. The counsel for the assessee also submitted an Affidavit in original in support of the above arguments

and the reason for non-appearance before the lower authorities. Further, the counsel for the assessee assured that if given an opportunity, the assessee is in a position to produce all necessary documents in support of the above properties. The counsel for the assessee also produced before us copies of passport and Visa of the assessee, in support of the contention that during the assessment proceedings as well as appellate proceedings, the assessee was not present in India. Further, the assessee also produced before us copies of sale and purchase deeds in respect of the three properties in question and has also given a working of the capital gain as per statement of income of the assessee for the impugned year under consideration. The counsel for the assessee also produced before us copy of bank statement of the assessee, during the impugned year under consideration. Accordingly, the counsel for the assessee submitted that the assessee is in possession of all necessary documents to be able to counter the additions made by the assessing officer and submitted that if given an opportunity, the assessee would be able to demonstrate that no additions are called for, taking into consideration the assessee's particular set of facts.

6. In response, DR placed reliance on the observations made by the assessing officer in Ld. CIT(Appeals) in their respective orders.

7. We have heard the rival contentions and perused the material on record. On going to the Affidavit filed by the counsel for the assessee and other documents like sale and purchase deed in respect of the three properties under consideration and also the purchase deed for another property for a consideration of the 16.50 lakhs, copies of bank statement for the impugned year under consideration, we are of the considered view that

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in the interest of justice, one more opportunity may be given to the assessee to present its case on merits before the assessing officer. However, it is also observed from the facts placed on record that the assessee had been all throughout non-compliant and therefore, a nominal cost of Rs.2000/- is being imposed on the assessee for the purpose of setting aside his case to the file of assessing officer and the same is directed to be deposited to the Prime Minister's Relief Fund.

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

This Order pronounced in Open Court on	09/10/2024
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Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 09/10/2024

TANMAY, Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad