

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD
BEFORE DR. BRR KUMAR, ACCOUNTANT MEMBER**

**ITA No.1077/Ahd/2023
Asstt.Year : 2012-13**

Dolatrai Manganlal Desai A-501, Keshav Priya Apartment Nr. Gopal Nagar Memnagar Ahmedabad 380 052. PAN : ACKPD 5590 N	Vs	ITO, Ward-2 Vapi.
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(Applicant)		(Responent)
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Assessee by :	Shri Jaymin Shah, AR
Revenue by :	Shri Ravindra, SR.DR

सुनवाई की तारीख/**Date of Hearing** : 10/10/2024
घोषणा की तारीख /**Date of Pronouncement**: 10/10/2024

आदेश/ORDER

This is assessee's appeal against the order of the ld.Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi dated 21.11.2023 for the Asst.Year 2012-13 passed under section 250 of the Income Tax Act, 1961 ("the Act" for short).

2. The grounds raised by the assessee in the appeal reads as under:

01. That the Ld. CIT(A) has erred in law and on facts while sustaining the addition made on account of capital gain of Rs.20,25,000/- by ITO, Ward-2, Vapi, which requires to be deleted.

02. That the Ld. A.O., ward-2, Vapi has erred in law and on the facts while issuing notice u/s 148 of the IT. Act, 1961 for A.Y. 2012-13 dated 29/03/2019 and therefore addition made on account of Long-Term Capital Gain of Rs.20,25,000/- is require to be deleted.

03. That the Ld. assessing officer, Ward -2, Vapi has issued notice u/s 148 without having jurisdiction and as such the proceeding initiated itself is bad in law, illegal and void.

04. *That the addition made by ITO, Ward -2, Vapi without having new material on record and as such notice issued u/s 148 dated 29/03/2019, is against the law and therefore the whole proceedings is bad in law, illegal and void.*

05. *That the appellant has furnished all the details and documents before the CIT(A) and before the assessing officer i.e. Copy of Valuation report as on 1.4.1981, Copy of Residential house purchase for Rs.9,28,800/-, plus stamp duty and registration fees for claiming deduction u/s 54F etc, however without considering the same the addition sustained by the CIT(A) is against the provision of law which requires to be deleted.*

06. *That the assessee has neither furnished inaccurate particulars of Income nor concealed any Income and as such penalty proceedings Initiated u/s 271(1)(b) may please be dropped.*

07. *That the appellant has neither committed default of Sec. 210 nor any default of advance payment of taxes and therefore unwanted interest charged u/s 234A 234B and 234C requires to be deleted.*

3. Pertinent facts for adjudication of the appeal on hand is that the assessee has filed his return of income on 28.3.2016 for the assessment year 2012-13 before the ITO, Ward-2, Vapi.

4. At the outset, the ld.counsel for the assessee raised preliminary objection as to the maintainability of impugned order passed by the Assessing Officer/ITO, Ward-2, Vapi dated 27.12.2019 and consequent proceedings thereafter.

5 The notice under section 142(1) of the Act was issued on 16.10.2015 by the ITO, Vapi. Records also prove that during the earlier assessment, the case of the assessee has been transferred from Vapi to Ahmedabad on 2.11.2015, hence a notice was issued by the ITO, Ward-2, Vapi under section 148 dated 29.3.2019 and subsequent order the ITO, Ward-2, Vapi dated 27.12.2019 is hereby held to be passed without valid jurisdiction.

In this view of the matter, the consequent proceedings is hereby quashed, and the appeal of the assessee is accordingly allowed.

Dictated on the Open Court, typed and pronounced on 10th October, 2024.

Copy of this order be given to the assessee. The Registry is directed to dispatch as per procedure.

Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER