

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "G", NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,

AND

SHRI YOGESH KUMAR US, JUDICIAL MEMBER

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| ITA NO. 1351/Del/2024 | | |
| A.Y.R. : 2014-15 | | |
| SURENDER PAL (through Legal Heir of Assessee) 3/326, UPPER GROUND FLOOR, NIRANKARI COLONY, DELHI – 110 009 (PAN: AHUPP1615Q) | VS. | INCOME TAX OFFICER, Ward 69(2), ROOM NO. 205, D-BLOCK, CIVIC CENTRE, NEW DELHI – 110 002 |
| (APPELLANT) | | (RESPONDENT) |

Appellant by : Shri Lakshay Bhudiraja, CA
Respondent by : Ms. Shashi Kajle, Sr. DR.

Date of hearing : 29.10.2024
Date of pronouncement : 29.10.2024

ORDER

PER SHAMIM YAHYA, AM :

The Assessee has filed the instant Appeal against the Order of the Ld. CIT(Appeal)/NFAC, Delhi dated 23.01.2024, relating to assessment year 2014-15 on the following grounds:-

1. That, on the facts of the case, the Ld. CIT(A) erred in confirming the addition made by the AO without providing sufficient opportunity of hearing to the assessee.
2. That, on the facts of the case, the Ld. CIT(A) erred in confirming the addition made by the AO amounting to Rs. 1,95,50,920/- worked out u/s. 45 of the I.T. Act, 1961 without examining the facts available on record.

3. That, on the facts of the case, the Ld. CIT(A) erred in confirming the addition made by the AO amounting to Rs. 1,85,26,550/- worked out u/s. 69A of the I.T. Act, 1961 without examining the facts available on record.
4. That, the appellant craves leave to amend, alter, modify substitute, add to, abridge and / and or rescind any or all of the above grounds.

2. The brief facts of the case are that the assessee was an individual and filed original Return of Income on 30/07/2014 in ITR-1 declaring total income of Rs.6,72,090/-. Subsequently, on the same day, the assessee filed Revised Return of income in Form ITR-2 declaring total income of Rs.7,57,230/-. The assessee has returned salary income of Rs.7,51,580/- and income from other sources amounting to Rs.1,60,449/-. The assessee has also shown Long-Term Capital gain of Rs.2,82,28,063/- and claimed deduction of Rs.2,88,92,000 u/s 54. The return was processed u/s 143(1) of the Income Tax Act, 1961. The case was selected for scrutiny under CASS. The AO completed the assessment u/s 143(3) on 30.12.2016 determining the total income at Rs.3,88,34,700/-. While completing the assessment, the AO made the following additions. The AO noticed that the assessee has sold a house property No.3/83, Nirankari Colony, Delhi at a total consideration of Rs.3,10,00,000 to Sant Nirankari Mandal on 06/11/2013. In the computation of Capital Gain filed during assessment proceedings, the assessee claimed that whole of it was eligible for deduction u/s 54 on account of investment in 6 other houses. The AO observed that the assessee has purchased only one property i.e. on 04/07/2014 at a consideration of Rs.56,20,250/- which confirmed to the requirements of section 54. The AO determined the Net Capital Gain as under:-

| | | |
|---|---------------|-----------------|
| Total Sales Consideration | | Rs.3,10,00,000 |
| Less: | | |
| i. Indexed Cost of acquisition computed by assessee | Rs. 58,28,830 | |
| ii. Cost of house purchased on 04.07.2014 | Rs. 56,20,250 | Rs. 1,14,49,080 |
| Net Capital Gain | | Rs.1,95,50,920 |

The AO added an amount of Rs.1,95,50,920/- to the income of the assessee u/s 45 of the IT Act as Long Term Capital Gain. The AO also made an addition of Rs.1,85,26,550/- on account of un-explained cash transaction / deposits u/s. 69A of the I.T. Act.

3. Upon assessee's appeal Ld. CIT(A) dismissed the appeal for non-prosecution.

4. Against the Ld. CIT(A)'s order, assessee is in appeal before us.

5. We have heard both the parties and perused the records. At the time of hearing, Ld. Counsel for the assessee's legal heir submitted that assessee was not given adequate opportunity before the AO to canvass his case and the assessee expired during the proceedings before the Ld. CIT(A). Hence, he pleaded that an opportunity may be granted to the assessee's legal heir before the AO to canvass his case properly.

6. Per contra, Ld. DR did not have any objection to the aforesaid proposition made by the Ld. AR for the assessee's legal heir.

7. After considering the aforesaid, we are of the considered view, that interest of justice will be served, if the issues in dispute are remitted back to the file of the AO with the directions to decide the same afresh, after giving adequate opportunity of being heard to the assessee's legal heir. We hold and direct accordingly.

8. In the result, the Assessee's appeal is allowed for statistical purposes.

Order pronounced on 29/10/2024.

Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

SRB

Copy forwarded to:-

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar