

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**SHRI K.M. ROY, ACCOUNTANT, MEMBER**

**ITA no.75/Nag./2024**  
(Assessment Year : 2015-16)

Nitin Jugalkishor Chendulkar  
Lahanuji Nagar, Near Atul  
Mangal Karyalaya, Nagpur 444 601  
PAN – ADOPC4056D

..... Appellant

v/s

Asstt. Commissioner of Income Tax  
Amravati

..... Respondent

Assessee by : Shri K.P. Dewani  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 08/10/2024

Date of Order – 25/10/2024

**ORDER**

**PER V. DURGA RAO, J.M.**

The assessee has filed this appeal challenging the impugned order dated 15/12/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2015-16.

2. Following grounds have been raised by the assessee:–

*"1. Whether the Ld. CIT-Appeals is correct in law & on facts in deciding the appeal ex-parte as no response to notice of hearing, inspite the assessee has filed online adjournment request on IT portal on 27.11.2023 in response to his notice of hearing Dt. 25.11.2023.*

*2. Whether the Ld. CIT-Appeals is correct in law in not adjudicating the grounds of appeals as raised by assessee in Form 35 of the appeal memorandum.*

*3. Whether the Ld CIT-Appeals is correct in law in dismissing the appeal even though the AO has not referred the matter to the valuation officer as laid down in section 50C(2) which is mandatory, and the facts itself are described in the assessment order.*

*4. Whether the Ld CIT-Appeals in correct in sustaining the addition u/s 43CA of I.T Act 1961 even though property sold by assessee was under agreement in the year 2011 and the actual consideration received was in excess of stamp duty value in the year 2011.*

*5. Whether the Ld CIT-Appeals is correct in law in sustaining the addition in spite of report of approved valuer submitted by assessee showing that the actual consideration received is greater than fair market value of the property.*

*6. Whether the Ld CIT-Appeals is correct in law in dismissing the appeal on the ground of delay in appeal inspite as per Form 35 the appeal is filed within due time.*

*7. Appellant craves leave to add, amend, alter, delete or modify any of the grounds of appeal at the time of hearing.”*

3. During the course of hearing, the learned Authorised Representative appearing for the assessee submitted that the learned CIT(A) has passed ex-parte order as there was no response by the assessee to the notice of hearing issued by the Assessing Officer inspite of the fact that the assessee had filed online adjournment application dated 25/11/2023, through Income-tax portal. He thus prayed before the Bench that the matter be restored to the file of the learned CIT(A) for adjudication on merit.

4. The learned Departmental Representative strongly supported the order passed by the learned CIT(A).

5. We have heard the rival arguments, perused the material available on record and gone through the orders of the authorities below. We find that though the learned CIT(A) gave opportunities to the assessee, ultimately, the order passed by him is an ex-parte order. The learned

Authorised Representative appearing for the assessee submitted that the learned CIT(A) has passed ex-parte order despite submission of adjournment application dated 25/11/2023, through the Income-tax Portal. In our view, the learned CIT(A) ought to have considered the adjournment application filed by the assessee and could have given sufficient opportunity to substantiate its case. Therefore, we are of the opinion that by following the principles of natural justice, one opportunity should be given to the assessee to substantiate his case before the learned CIT(A). In view of the above, the order passed by the learned CIT(A) is set aside and remit the matter to the file of the learned CIT(A) and direct him to adjudicate the matter afresh after providing reasonable opportunity of being heard to the assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason. Accordingly, all the grounds raised by the assessee in this appeal are allowed for statistical purposes.

6. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on **25/10/2024**

**Sd/-**  
**K.M. ROY**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**V. DURGA RAO**  
**JUDICIAL MEMBER**

**NAGPUR, DATED: 25/10/2024**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury  
Sr. Private Secretary

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur