

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE “A” BENCH, BANGALORE**

**Before Ms. Padmavathy S., Accountant Member  
And  
Shri Prakash Chand Yadav, Judicial Member**

<b>ITA No. 1505/Bang/2024</b> (Assessment Year: 2017-18)		
Chandanahalli Nagarajaiah Shashikiran No. 1954, 8th Main, 'E' Block Rajajinagar, Bangalore 560010 PAN – ASSPS8286Q  (Appellant)	vs.	ACIT, Circle - 2(2)(1) BMTc Building Koramangala Bengaluru 560095  (Respondent)
Assessee by:	Shri Ravindra M. Hegde, CA	
Revenue by:	Ms. Neha Sahay, JCIT-DR	
Date of hearing:	21.10.2024	
Date of pronouncement:	23.10.2024	

**ORDER**

**Per: Padmavathy S., A.M.**

This appeal of the assessee is against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [CIT(A)] dated 07.06.2024 for Assessment Year (AY) 2017-18.

2. The assessee has raised the following grounds of appeal: -

- “1) The order of the learned Commissioner of income tax (Appeal), passed under section 250 of the Act in so far as it is against the Appellant is opposed to law, weight of evidence, natural justice, probabilities, facts and circumstances of the Appellant's case.*
- 2) The appellant denies himself liable to be assessed total income of Rs. 4,39,15,228/- against the return of income of Rs. 1,46,83,360/- on the facts and circumstances of the case.*

- 3) *The Ld.CIT(A) failed to appreciate that the assessment order passed by Ld.Assessing Officer us 143(3) of IT Act 1961 is void ab initio and liable to be quashed as the Ld. Assessing officer did not provided proper opportunity before passing the assessment order on the facts and in circumstances of the case.*
- 4) *The Ld.CIT(A) failed to appreciate that the assessment order passed by Ld.Assessing Officer us 143(3) of IT Act 1961 is invalid and illegal because the statutory notices required to be issued and served us 143(2) dated 16/08/2018 and u/s 142(1) dated 21/01/2019 of IT Act 1961 was neither issued nor served on the appellant, Further notice that is said to have been issued after change in incumbency of the Ld Assessing officer dated 25/10/2019 is also not served upon the appellant and the appellant is completely in lack of information in respect of the proceedings on the facts and in the circumstances of the case.*
- 5) *The Ld.CIT(A) failed to appreciate that the change in incumbency the Ld Assessing officer has not made a genuine attempt nor has followed the due process of law in its spirit to give a reasonable opportunity to the appellant to place the facts and documents in support of the case on the facts and in circumstance of the case.*
- 6) *The CIT(A) failed to appreciate that the appellant was not provided with complete time provided under the statute to purchase an apartment and complete further construction so as to make it fit for occupancy within the 3 years from the date of sale of immovable property as contemplated us 54F of IT Act 1961.*
- 7) *The Ld.CIT(A) failed to appreciate that the Ld Assessing officer disallowed the claim of appellant us 54F of IT Act 1961 of Rs.2,87,68,621/- even though the proof of investment was submitted by the appellant on the facts and in circumstances of the case.*
- 8) *Without prejudice to the right to seek waiver as per the parity of reasoning of the decision of the Hon'ble Apex Court in the case of Karanvir Singh 349 ITR 692, the Appellant denies herself liable to be charged to interest under section 234 of the Income Tax Act under the facts and circumstances of the case. The appellant contends that the levy of interest under section 234A, 234 B and 234 C of the Act is also bad in law as the period, rate, quantum and method of calculation adopted by the learned assessing officer on which interest is levied are not discernible and are wrong on the facts of the case.*
- 9) *The appellant craves leave to add, alter, amend, substitute, change and delete any of the grounds of appeal.*
- 10) *For these grounds that may be urged at the time of hearing of appeal, the appellant prays that appeal may be allowed for the advancement of substantial cause of justice and equity.”*

3. The assessee is an individual and filed the return of income for AY 2017-18 on 28.03.2018 declaring total income of Rs. 1,46,83,360/-. The case was selected for scrutiny and the statutory notices were duly served on the assessee. During the course of assessment proceedings the Assessing Officer (AO) noticed that the assessee has received a sale consideration of Rs. 3,00,21,750/- on sale of a property against the stamp duty value of Rs. 3,03,25,000/-. The AO also noticed certain issues in the exemption claimed by the assessee u/s. 54F of the the Income Tax Act, 1961 (the Act). Accordingly the AO completed the assessment u/s. 143(3) by making addition towards difference in the consideration received to the tune of Rs. 3,03,250/-. The AO further denied benefit of section 54F of the Act to the tune of Rs. 2,87,68,621/-. Aggrieved, assessee filed further appeal before the CIT(A). The CIT(A) issued several notices to the assessee. Since the assessee did not respond, the CIT(A) considered the appeal based on the material available on record and confirmed the additions/disallowances made by the AO. Aggrieved, assessee is in appeal before us.

4. The learned A.R. submitted that some of the notices issued by the CIT(A) were during the Covid-19 period and that the assessee was not aware of the notice issued subsequently also. Accordingly, the learned A.R. prayed for one more opportunity to contend the appeal on merits before the lower authorities.

5. The learned D.R. vehemently argued that the assessee should not be given another opportunity since he has not been responding to the notices issued by the CIT(A).

6. We have heard the rival contentions and perused the material on record. Considering the facts and circumstances peculiar to the case and in the interest

of natural justice and fair play we are inclined to give one more opportunity to the assessee. The issue is restored to the file of the AO for fresh adjudication after affording reasonable opportunity to the assessee.

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

Order pronounced in the open Court on 23<sup>rd</sup> October, 2024

Sd/-

**(Prakash Chand Yadav)**  
**Judicial Member**

Bengaluru, Dated: 23<sup>rd</sup> October, 2024  
n.p.

Sd/-

**(Padmavathy S.)**  
**Accountant Member**

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT, concerned*
4. *The DR, ITAT, Bangalore*
5. *Guard File*

//True Copy//

*By Order*

*Assistant Registrar*  
*ITAT, Bangalore*