

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, MUMBAI**

**SHRI AMARJIT SINGH, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 2333/MUM/2024
(Assessment Year: 2013-2014)**

Priyanka Balkrishna Bhoir

304 Building No.38, Riverwood,
Park Desai Naka, Dombivali – 400612.

Maharashtra.

[PAN:ALXPB9066D]

..... **Appellant**

Income Tax Officer Ward 3(1) Kalyan,

Rani Mansion, Kalyan-Murbad Road,

Above Canara Bank, Syndicate,

Kalyan - 421301, Maharashtra.

Vs

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Bhupendra Shah

For the Respondent/Department : Shri Raj Singh Meel

Date

Conclusion of hearing : 28.08.2024

Pronouncement of order : 07.11.2024

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the Assessee is directed against the order, dated 26/03/2024, passed by the National Faceless Appeal Centre (NFAC), Delhi, [hereinafter referred to as 'the **CIT(A)**'] under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] whereby the Ld. CIT(A) had dismissed the appeal against the Assessment Order, dated 31/12/2018, passed under Section 143(3) read with Section 147 of the Act for the Assessment Year 2013-14.

2. The Assessee has raised following grounds of appeal :

"1. *In the facts and the circumstances of the case and in law, the learned CIT[A] erred in wrongly dismissing the appeal by*

totally disregarding the fact that application for remand report was pending since pre covid-19 period with the JAO and CIT[A] NFAC.

Without prejudice to the above,

2. *In the facts and the circumstance of the case and in law, the learned A.O. erred in passing assessment order u/s.143(3) without issuing show cause notice for the same which is bad in law as per CBDT instruction.*
 3. *In the facts and the circumstance of the case and in law, the learned A.O. erred in adding Rs.1,51,74,960/- u/s.69 being investment in purchase of flat from M/s. Lodha Developers Ltd. even though the source of the payment for the purchase was explained by the Appellant as adjustments against sale of plot by her husband to M/s.Lodha Dwellers Pvt. Ltd.*
 4. *In the facts and the circumstance of the case and in law, the learned A.O. erred in disallowing claim of expenses paid to Occupant (Kabjedar) amounting to Rs.25,00,000/- and also disregarded stamp duty and registration expenses amounting to Rs.8,50,000/-.*
 5. *The Assessing Officer wrongly charged interest u/s.234 and initiated penalty u/s.271(1)(c)."*
3. The relevant facts are in brief that the reassessment proceedings were initiated in the case of the Appellant, an individual Assessee, for the Assessment Year 2013-14 which concluded into passing of Assessment Order, dated 31/12/2018, under Section 143(3) read with Section 147 of the Act whereby the income of the Appellant was assessed of INR.1,85,87,250/- after making (a) addition of INR.1,51,74,960/- under Section 69 of the Act holding the same to be unexplained investment in flat purchased by the Appellant and (b) addition of INR.33,50,000/- as short term capital gains by re-computing the as short term capital gain at INR.34,39,100/- (as against INR.89,100/- computed by the Appellant) by not granting to the Appellant the benefit of cost of improvement of INR.25,00,000/- (in relation to payments made to occupants to get vacant

possession) and stamp duty/registration charges of INR.85,00,000/-.

4. The appeal preferred before the CIT(A) against the Assessment Order, dated 31/12/2018, passed under Section 143(3) read with Section 147 of the Act was dismissed by the CIT(A), vide order dated 26/03/2024. Hence, the present appeal has been preferred against the aforesaid order of the CIT(A) on the grounds reproduced in paragraph 2 above.
5. We have heard both the sides on Ground No. 1 and perused the material on record.
6. The primary grievance of the Appellant is that the CIT(A) has dismissed the appeal without taking into consideration the supporting documents and submissions filed by the Assessee.
7. We note that the CIT(A) has dismissed the appeal in the following manner:

"3. During the appellate proceedings the appellant has submitted various document and quoted remarks in her response which is reproduced as under.

"We herewith enclosing the Flat Purchase Agreement along with receipt of builder showing that the payment made by husband Balkrishna Bhoir (adjusted from his land sale payment), Purchase & sale agreement of land during the year, copy of Application of Remand Report as the payment receipt of Flat payment which was not available on the date of assessment & submitted as received on the day after the assessment date & copy of rectification report u/s 154 which is yet not rectified. And already filed the partial response on 11-02-2021."

3.1. I have carefully considered the submission put forth and the documents furnished by the appellant, perused the facts of the case and brought other material on record. No satisfying logical

explanation has been given by the appellant for Ground No 1,2 & 3 related to this appeal. So, I have no reason to interfere with this addition of AO. Hence these grounds are dismissed.
(Emphasis Supplied)

8. On perusal of the above, it becomes clear that while the CIT(A) has, in paragraph 3 of the order impugned, stated that the Appellant had filed documents/response. However, there is no discussion regarding the same in the order impugned. The Appellant has placed before us copy of e-Proceedings Response Acknowledgement [Acknowledgement No. 127354611270423] whereby the Appellant had filed before the CIT(A) (a) Computation of Income, (b) Application for remand report u/s.46A dated 24/04/2023. (c) Agreement of purchase of plot (Kayam Kharedi Khat), dated 09/11/2012 and (d) Agreement of Sale of plot (Farokt Khat), dated 21/03/2013. There is also no discussion in the impugned order regarding the receipt from builder of payment received against payment adjusted from the account of the husband of the Appellant sought to be relied upon by the Appellant as additional evidence before the CIT(A). The order passed by the CIT(A) does not reflect application of mind to the documents/submission of the Appellant. Accordingly, the order, dated 26/03/2024, passed by the CIT(A) is set aside with the directions to decide all the grounds raised in appeal before the CIT(A) afresh after granting the Appellant a reasonable opportunity of being heard. The Appellant is directed to file a consolidated copy of applications, submissions, and documents filed before the CIT(A). Since we have directed adjudication of appeal afresh, all the rights and contentions of the Appellant are left open. In terms of the aforesaid, Ground No. 1 raised by the Appellant is allowed for statistical purposes while all the other grounds raised before the Tribunal are dismissed as having been rendered infructuous.

9. In result, the appeal preferred by the Assessee is allowed for statistical purposes.

Order pronounced on 07.11.2024.

Sd/-
(Amarjit Singh)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 07.11.2024
Milan,LDC

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण , मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai