

**IN THE INCOME-TAX APPELLATE TRIBUNAL “D” BENCH,
MUMBAI**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA 4879/MUM/2024
(A.Y. 2018-19)**

Deepak Kumar Doshi, 603, Mayfair Greens, SV Road, Near Poisar Depo., Kandivali West, Mumbai 400 067, Maharashtra	v/s. बनाम	Income Tax Officer, Ward – 42(1)(2), Kautilya Bhavan, Bandra Kurla Complex, Bandra (East), Mumbai 400051, Maharashtra
स्थायी लेखा सं./जीआइआर सं./ PAN/GIR No: AIVPD3072G		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Ms. Varsha Bhomraj Bhatler
Respondent by :	Shri R. R. Makwana (Sr. DR)

Date of Hearing	11.11.2024
Date of Pronouncement	14.11.2024

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The present appeal arising from the appellate order dated 05.08.2024 is filed by the assessee against the order passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] pertaining to assessment order passed u/s. 143(3) of the Income-tax Act, 1961 [hereinafter referred to as “Act”] dated 27.01.2021 as passed by the Income Tax Officer, Ward-42(1)(2), Mumbai for the Assessment Year [A.Y.] 2018-19.

2. The grounds of appeal are as under:
 - (a) *In the facts and circumstances of the case and in law, the learned A.O. [FAO] erred in making an addition of Rs. 57,20,450/- to the other income of the appellant under section 56(2)(x) of the Act, without appreciating the facts and explanations provided by the appellant.*
 - (b) *In the facts and circumstances of the case and in law, the learned Commissioner of Income Tax(A), NFAC also erred in confirming the same.*
3. Factual matrix borne from the record shows that the assessee purchased a flat during the year. However, it was noted that the stamp duty value of flat purchased was Rs. 1,60,55,000/- whereas the assessee had shown the purchase value at Rs. 1,03,34,550/-. The difference of Rs. 57,20,450/- between the stamp duty value and purchase value was brought to tax income from other sources w/s 56(2)(x) of the Income Tax Act, 1961.
4. As per the appellate order, during the appellate proceedings, the assessee had submitted only 'Statement of Facts'. After that neither he replied to hearing notices nor submitted any documentary evidence/information to prove his side. Sufficient and adequate opportunities were afforded to the appellant as indicated in table at page no 2. No reply whatsoever was submitted by the appellant.



5. We have carefully considered all the relevant aspects of the case, non-compliance of the assessee and the conclusions drawn by the lower authorities. It is apparent from the records that in the present case, no substantive hearing could take place owing to non-compliance on part of the assessee. Moreover, the Ld. CIT(A) has not adjudicated at length on the issues involved without making an independent analysis of the case himself. It is in the fitness of things to allow one last opportunity of hearing to the assessee to explain the matter before lower authorities in the interests of justice and fair-play. We find in quite a few cases that there is some degree of lack of proper communication wherever notices are sent through e-portal. Besides, we hold that as per the provisions of Section 250(6) of the 1961 Act, Ld. CIT(A) is obligated to state points for determination in appeal before him, the decision thereon and the reasons for determination. He has no power to dismiss appeal of assessee on account of non-prosecution and without deciding on the merits of the case.
6. During the hearing, the Bench proposed for restoration of the matter to the Ld. CIT(A) for a *de novo* consideration. The Revenue did not oppose this plea. Thus, in the interest of justice, we deemed it appropriate to allow the appeal for statistical purposes



emphasizing the need for a thorough and compliant adjudication process. The Ld. CIT(A) shall give proper and adequate opportunity of being heard to the assessee in accordance with principles of natural justice in the set aside remand proceedings for *de novo* adjudication of the appeal of the assessee filed before him. Needless to state that the assessee will comply with notices and any details sought by the appellate authority.

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

Order pronounced in the open court on 14/11/2024.

Sd/-

BEENA PILLAI

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य / ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 14.11.2024

Lubhna Shaikh / Steno

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

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



सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

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

