

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER**

**SMC MATTER**

**ITA no.357/Nag./2024**

**(Assessment Year : 2018-19)**

Devanand Babasaheb Shirke  
House no.2, Survey Layout  
Sakkardhara Road, Raguli Nagar  
Nagpur 440 009 PAN – DCQPS6993K

..... Appellant

v/s

Income Tax Officer  
Ward-4(4), Nagpur

..... Respondent

Assessee by : Shri Manoj G. Moryani  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 07/11/2024

Date of Order – 18/11/2024

**ORDER**

The instant appeal has been filed by the assessee challenging the impugned order dated 24/04/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“learned CIT(A)”], for the assessment year 2018-19.

2. The assessee has raised following grounds:-

*“The Ex-party order U/s. 147 passed by the CIT(A) NFAC is illegal, invalid and bad in law;*

*2. The notices issued by the CIT(A) NFAC on e-portal but not received by the assessee and no opportunity to being heard has been provided to assessee, therefore ex-parte order passed by the CIT(A) NFAC is unjustified, unwarranted and excessive*

3. *On the fact and circumstances CIT(A) NFAC erred in not considering that the assessee is having Moon Disorder problems, hence unable to understand any act made by him, without accepting the same ex-parte order passed is unjustified, unwarranted and excessive;*

4. *On the facts and circumstances the learned CIT(A) NFAC erred in confirming total income determined at Rs. 44,49,510/- as per value taken for stamp duty purpose and made addition of Rs. 40,47,000/-, therefore ex-parte order passed is unjustified, unwarranted and excessive;*

5. *On the facts and circumstances the learned CIT(A) NFAC ought to have accepted sale consideration as well as indexed cost of acquisition and selling expenses, therefore addition confirmed at Rs. 40,47,000/- is unjustified, unwarranted and excessive;*

6. *On the facts and circumstances the learned CIT(A) NFAC ought to have accepted that sale consideration was fixed at the time of amount received by the assessee on 01/02/2015 as per mutual consent of the parties i.e. during the previous year relevant to Asstt. Year 2015- 2016 and not A.Y. 2018-2019, therefore addition confirmed at Rs. 40,70,000/- is unjustified, unwarranted and excessive;*

7. *On the facts and circumstances of the case the learned CIT(A) NFAC ought to have considered assessing officer failed to consider that the assessee was in possession of the said property and thereby not considered the reply filed by assessee and failed to consider valuation report submitted by the assessee in relation to valuation of property, therefore the order passed is illegal, invalid and bad in law.*

8. *On the facts and circumstances of the case the learned CIT(A) NFAC erred in not accepted the contention of the assessee that assessee has possession of property and sale deed was executed as consentor, therefore addition confirmed are unjustified, unwarranted and excessive.*

9. *The assessee is denied the liability of interest charges U/s. 234A, 234B and 234C of the Income Tax Act, the same may kindly be deleted."*

3. When this appeal is taken up for hearing, the learned A.R. appearing for the assessee submitted that the learned CIT(A) passed an ex-parte order and prayed that one opportunity may be granted by restoring the matter to the file of the learned CIT(A) to enable the assessee to substantiate its case.

4. On the other hand, the learned D.R. submitted that the learned CIT(A) has given sufficient opportunities inspite of that the assessee has not appeared

before the learned CIT(A) and not filed relevant details. He strongly supported the orders passed by the learned CIT(A).

5. We have heard both the parties, perused the materials available on record and gone through 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. Therefore, we are of the opinion that by following the principles of natural justice, one more 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 Assessing Officer 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 18/11/2024

**NAGPUR, DATED: 18/11/2024**

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

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