

**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.434/Nag./2024**  
**(Assessment Year : 2016-17)**

Vinayak Jagannath Ragit  
Plot no.18, Navnit Nagar, Wadi 440 0203  
PAN – AGUPR4599K

..... Appellant

v/s

Income Tax Officer  
Ward-3(1), Nagpur

..... Respondent

Assessee by : Shri Abhay Agrawal  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 18/11/2024

Date of Order – 28/11/2024

**ORDER**

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

The aforesaid appeal by the assessee against the impugned order dated 29/05/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, Delhi, [*learned CIT(A)*], for the assessment year 2016-17.

2. The assessee has raised following grounds:-

*"1. The learned CIT(A) erred in dismissing the appeal ex-parte without considering the merits of the case.*

*2. The learned CIT(A) erred in not appreciating that, the notice issued u/s 148 was bad in law.*

*3. The learned CIT(A) erred in confirming the action of learned AO in making an addition on account of capital gains arising from sale of immovable property under section 50C at Rs.35,58,500.*

*4. The learned AO erred in not providing the benefit of deduction towards cost of acquisition and indexation thereon while computing the long-term capital gain.*

*5. The learned AO erred in computing the capital gains by in hands of assessee whereas there were 8 co-owners of the property and 1/8th share belonged to the assessee.*

*6. The Appellant prays leave of the Hon'ble Tribunal to add, amend, alter any of the Grounds of Appeal."*

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 before the learned CIT(A).

2. On the other hand, the learned D.R. submitted that despite the learned CIT(A) provided sufficient opportunities to the assessee, however, the assessee did not appear before the learned CIT(A) and not furnished relevant details. He strongly supported the orders passed by the learned CIT(A).

2. 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) granted opportunities to the assessee to substantiate its case, 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 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 on merit and in accordance with law 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.

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

Order pronounced in the open Court on 28/11/2024

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

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

**NAGPUR, DATED: 28/11/2024**

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