

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "B", PUNE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2014/PUN/2024  
निर्धारण वर्ष / Assessment Year : 2015-16

Sandeep Namdeo Nimhan, 114, Jaibhawani Nagar, Sutarwadi, Pashan, Pune- 411021. PAN : AWBPN6316R	Vs.	ITO, Ward-2(3), Pune.
Appellant		Respondent

Assessee by : Shri Pratik Sandbhor  
Revenue by : Shri Arvind Desai

Date of hearing : 04.12.2024  
Date of pronouncement : 06.12.2024

**आदेश / ORDER**

**PER VINAY BHAMORE, JM:**

This appeal filed by the assessee is directed against the order dated 31.07.2024 passed by Ld. CIT(A)/NFAC for the assessment year 2015-16.

2. Facts of the case, in brief, are that the assessee is an individual filed his return of income on 31.12.2015 declaring total income of Rs.83,190/-. On the basis of information that income chargeable to tax to the extent of Rs.1,76,75,000/- being sale value of agricultural

land has escaped assessment, the case was reopened u/s 147 of the IT Act. Notices u/s 148, 143(2) and 142(1) of the IT Act were issued to the assessee. In response to the above notices, the assessee submitted that the land sold was not capital asset hence long term capital gain was not payable. After considering the reply of the assessee, the assessment order u/s 143(3) r.w.s. 147 was passed by determining total taxable income at Rs.1,77,58,190/- against the income returned by the assessee at Rs.83,190/-. The above assessed income includes long term capital gain of Rs.1,76,75,000/-. Since the assessee remained absent, Ld. CIT(A)/NFAC dismissed the appeal filed by the assessee. It is this order against which the assessee is in appeal before this Tribunal.

3. Ld. AR appearing from the side of the assessee submitted before us that the *ex-parte* order passed by Ld. CIT(A)/NFAC is not justified. It was submitted that the appellant requested for adjournment but Ld. CIT(A)/NFAC rejected his request and proceeded to decide the appeal *ex-parte*. Accordingly, it was requested before the Bench to set-aside the *ex-parte* order passed by

Ld. CIT(A)/NFAC and further requested to provide one opportunity to substantiate the ground of appeal before Ld. CIT(A)/NFAC.

4. Ld. DR appearing from the side of the Revenue relied on the orders passed by subordinate authorities and requested to confirm the same. It was also brought to the notice of the Bench that various opportunities were allowed but the assessee remained absent.

5. We have heard Ld. Counsels from both the sides and perused the material available on record. We find that the assessment order and first appeal order were passed in the name of Suvarna Sandeep Nimhan whereas second appeal before the Tribunal has been filed by legal heir Sandeep Namdeo Nimhan. We also find that admittedly Ld. CIT(A)/NFAC has provided total five opportunities to the appellant-assessee. Out of these five opportunities two were provided during Covid-19 period and only three hearings can be said to be effective hearings provided to the assessee. We also find that the first effective hearing was provided on 13.06.2024, the second effective hearing was provided on 27.06.2024 and the last and final opportunity was granted on 29.07.2024. Out of three opportunities the assessee sought adjournment on last two dates but

Ld. CIT(A)/NFAC considering all the five opportunities as provided to the assessee hold that multiple opportunities have already been provided to the assessee, rejected the adjournment application and proceeded to decide the appeal *ex-parte* in the absence of appellant-assessee. Under the above circumstances and considering the totality of the facts of the case, we find some force in the argument of Ld. AR that proper opportunity has not been provided to the assessee. Accordingly, without going into merits of the case we deem it fit to set-aside the *ex-parte* order passed by Ld. CIT(A)/NFAC and remand the matter back to him with direction to decide the appeal afresh as per fact and law after providing reasonable opportunity of hearing to the assessee. The assessee is also hereby directed to respond to the notices issued by Ld. CIT(A)/NFAC in this regard and produce supporting documents/evidences in support of grounds of appeal, otherwise, Ld. CIT(A)/NFAC shall be at liberty to pass appropriate order as per law. Thus, the grounds of appeal raised by the assessee are partly allowed.

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

Order pronounced on 06<sup>th</sup> day of December, 2024.

**Sd/-**  
**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 06<sup>th</sup> December, 2024.

*Sujeet*

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT/CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.