



**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "SMC", LUCKNOW**

BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER

ITA No.514/LKW/2024
(Assessment Year: 2012-13)

Prashant, 2-B, Wazidpur, Jajmau, Kanpur-208010.	v.	The Income Tax Officer, Ward-1(1)(3) Aaykar Bhawan, 16/69, Civil Lines, Kanpur- 208001.
PAN:ADMPK9965F		
(Appellant)		(Respondent)

Appellant by:	Shri Ashish Jaiswal, Adv
Respondent by:	Shri Sunil Kumar Rajwanshi, Addl. CIT(DR)
Date of hearing:	10 12 2024

ORDER

PER ANADEE NATH MISSHRA, A.M.:

1. The present appeal has been filed by the assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals) [hereinafter "the Ld. CIT(A)"/National Faceless Appeal Centre (NFAC) under section 250 of the Income Tax Act, 1961 (hereinafter "the Act") dated 20/06/2024 for the assessment year 2012-13 wherein, the assessee's appeal has been dismissed in limine for the reason of non compliance. The grounds of appeal of the assessee are as under: -

"1. That the Id.AO has erred in reopening the assessment u/s 147 of the Income Tax Act, 1961 without forming reason to believe as to escapement of income from tax u/s 149 of the Income Tax Act, 1961.

2. That the Ld. AO has erred in completing reassessment without issuance and service of notice under section 148 of the Income Tax Act, 1961 as required under Law.

3. That the Id.AO has erred in reopening assessment u/s 147 without lawful approval required u/s 151 of the Income Tax Act, 1961.

4. That the Ld. AO has erred in reopening assessment under section 147 of the Act on the basis of deeming provision under section 50C of the Income Tax Act, 1961.

5. That the Ild.AO has erred in making addition of Rs.4,60,000/- u/s 147 rws 144 of the Income Tax Act, 1961.

6. That the Ld. AO has erred in making addition of Rs. 4,60,000/ without giving effect of the cost of acquisition.

7. That the Ld. AO has erred in making addition and charging income to tax without giving basic exemption to total income.

8. That the Ld. AO has erred in making addition of Rs. 4,60,000/- being 1/5th of sale receipt from the sale value as per circle rate without referring to DVO.

9. That the Ld. CIT(A) as well Id.AO has erred in not providing proper and adequate opportunity to the appellant.

10. That the order passed by the Ld. CIT(A) as well as Id.AO is arbitrary and bad-in-law.

11. That the appellant craves leave to introduce, modify or withdraw any ground of appeal with kind permission of your honour.”

1.1 The appeal has been filed by the assessee beyond time limit prescribed under section 254(3) of the Income Tax Act, 1961 (hereinafter “the Act”). As per noting of Registry, this appeal is time barred by one day. The assessee has filed an application seeking condonation of delay in filing of this appeal. The application for condonation of delay is supported by an affidavit of the assessee. The Ld. Sr. Departmental Representative for Revenue did not express any objection to the delay being condoned. In view of the foregoing, the delay in filing of this appeal is condoned, and the appeal is admitted for decision on merits.

2. In this case, vide assessment order dated 07/12/2019 was passed by the Assessing Officer under section 147/144 of the Act whereby the assessee’s total income was assessed at Rs.4,60,000/-. In the assessment order, the Assessing Officer made an addition under section 50C of the Act. The assessee’s appeal against the aforesaid assessment order was dismissed by

the Ld. CIT(A) vide impugned appellate order dated 20/06/2024 of the Ld. CIT(A). The present appeal has been filed by the assessee in Income Tax Appellate Tribunal (ITAT) against the aforesaid impugned appellate order dated 20.06.2024 of the Ld. CIT(A). At the time of hearing before us, the Assessee was represented by Shri Ashish Jaiswal, Ld. Authorized Representative ("AR") and Revenue was represented by Shri. Sunil Kumar Rajwanshi, Ld. Departmental Representative ("DR). The Ld. Counsel for the Assessee submitted that the assessment order was passed by the Assessing Officer without providing reasonable opportunity to the assessee. He also submitted that the order of the Assessing Officer was an exparte order qua the assessee, passed after service of notice of hearing dated 30.11.2019 by affixture. The date of compliance was fixed on 06.12.2019. The time available after affixture of aforesaid notice of hearing, it was submitted by Ld. Counsel for the assessee, was too short and the assessee did not come to know about the service by affixture. Therefore, the Ld. Counsel for the Assessee submitted, the assessee could not assist the Assessing Officer in the course of the assessment proceedings. Further, he submitted that the impugned appellate order dated 20.06.2024 of the Ld. CIT(A) was harsh and unjust in so far as the Ld. CIT(A) did not appreciate that there was reasonable cause for non-attendance at the time of hearing. He submitted that the issue in dispute may be restored to the file of the Assessing Officer with the direction to pass denovo order in accordance with law, after providing reasonable opportunity to the assessee. The Ld. Departmental Representative expressed no objection to this.

3. In view of the foregoing, in the specific facts and circumstances of this case; and as representatives of both sides are in agreement with this; the impugned appellate order of Ld. CIT(A) is set aside, and the issue in dispute regarding the addition under section 50C of the Act is restored to the file of the Assessing Officer with the direction to pass fresh assessment order in accordance with law, after providing reasonable opportunity to the assessee. All grounds of appeal are treated as disposed of in accordance with the aforesaid direction.

In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 12/12/2024.

Sd/-
[ANADEE NATH MISSHRA]
ACCOUNTANT MEMBER

DATED: 12/12/2024

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard file

//True Copy//

By order

Assistant Registrar