



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

**BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

ITA No.502/LKW/2024  
Assessment Year:2014-15

Rakesh Kumar Gupta House No.51, Kaharan Nawabganj, Bareilly (U.P)	v.	The Income Tax Officer Ward 2(3) Bareilly
TAN/PAN:AAUPG6815		
(Appellant)		(Respondent)

Appellant by:	None
Respondent by:	Shri Sunil Kumar Rajwanshi, D.R.
Date of hearing:	05   12   2024
Date of pronouncement:	13   12   2024

**ORDER**

This appeal has been preferred by the assessee against the order dated 26.06.2024, passed by the Id. Addl/JCIT(A)-1, Jaipur for Assessment Year 2014-15.

2. The brief facts of the case are that the assessee filed his return of income for the year under consideration on 30.09.2014, declaring a total income of Rs.3,82,060/-. Subsequently, the case of the assessee was selected for limited scrutiny under CASS and notice under section 142(1) of the Income Tax Act, 1961 (hereinafter called "the Act") along with questionnaire was issued to the assessee. In response, the assessee filed written submissions. During the course of assessment proceedings, the Assessing Officer (AO) noticed that during the year under

consideration, the assessee had sold an immovable property situated at Village Maheshpur Ataria, Quila Corssing, Rampur Road, Bareilly for a consideration of Rs.40,00,000/- and that the Stamp Duty value of the same was Rs.84,23,000/-. The AO further noticed that the assessee had purchased the aforesaid property on 08.07.2009 for a consideration of Rs.32,50,000/- (including Stamp duty and other expenses). Since the assessee had failed to submit any explanation/evidence as called for by the AO, vide notice under section 142(1) of the Act and also under section 131 of the Act issued to the wife of the assessee, the AO computed the Long Term Capital Gain of the assessee for the year under consideration as under:

Full value of consideration u/s. 50C of the Act	: 84,23,000/-
Less: Indexed cost of acquisition	
32,50,000/632X939	: 48,28,710/-
Long Term Capital Gains	: 35,94,290/-

3. The AO completed the assessment under section 143(3) of the Act, assessing the total income of the assessee at Rs.39,76,350/- after making addition of Rs.35,94,290/- under the head "Long Term Capital Gains".

4. Aggrieved, the assessee preferred an appeal before the Ld. First Appellate Authority. The appeal under e-Appeals

Scheme, 2023 was migrated to ld. Addl/JCIT(A)-1, Jaipur. However, the appeal before the ld. Addl/JCIT(A)-1, Jaipur came to be dismissed for the reason of delay in filing of the appeal before the Ld. First Appellate Authority.

5. Now, the assessee has approached this Tribunal challenging the dismissal of its appeal by the ld. Addl/JCIT(A)-1, Jaipur by raising the following grounds of appeal:

1. *That on the facts and circumstances of the case and in law, the Ld. Commissioner of Income tax (Appeals) (hereinafter referred to as 'Ld. CIT (A)) has grossly erred in dismissing the Appeal on the ground of limitation.*
2. *That on the facts and circumstances of the case and in law, the Ld. CIT (A) has failed to appreciate that in the matters of condonation of delay, substantial justice is paramount consideration and pivotal and that the authorities ought to follow a liberal, pragmatic, justice oriented, non-pedantic approach.*
3. *That on the facts and circumstances of the case and in law, the Ld. CIT (A) has failed to appreciate that the term 'sufficient cause' referred to in section 245(3) has to be understood in its proper spirit, letter and intent.*
4. *That on the facts and circumstances of the case and in law, the Ld. CIT (A) has failed to appreciate that the delay attributable to the filing of the appeal was on account of non-receipt of the Assessment Order and the Covid-19 pandemic which had engulfed the entire globe.*

5. *That on the facts and circumstances of the case and in law, the Ld. CIT (A) and the AO have grossly erred in making the impugned additions of Rs.35,94,290 as Long Term Capital Gains.*
6. *That on the facts and circumstances of the case and in law, the Ld. CIT (A) and the AO have grossly erred in not appreciating that the matter ought to have been referred to the Valuation Officer in terms of section 50C(2) of the Income Tax Act, 1961.*
7. *That on the facts and circumstances of the case and in law, the Ld. CIT (A) and the AO have grossly erred in overlooking that a specific objection qua the applicability of the stamp value u/s 50C of the Act was taken in Written Submission dated 20.06.2016 filed before the Assessing Officer.*
8. *That on the facts and circumstances of the case and in law, the Ld. CIT (A) has and the AO have grossly erred in not appreciating the correct factual matrix of the case while making the impugned addition of Rs.35,94,290.*

6. None was present for the assessee when the appeal was called out for hearing nor was any application for adjournment placed before me. However, looking into the facts of the case, I proceed to adjudicate the appeal ex-parte qua the assessee.

7. The ld. Senior D.R. had no objection to the restoration of appeal to the ld. Addl/JCIT(A)-1, Jaipur.

8. I have heard the Ld. Sr. D.R. and have also perused the material on record. Looking into the facts of this case, I am of the considered view that the assessee deserves one more opportunity to present his case and, therefore, in the interest of substantial justice, I restore this file to the Office of the ld. Addl/JCIT(A)-1, Jaipur with the direction to give an opportunity to the assessee to explain the delay in filing the appeal and thereafter, if deemed appropriate, condone the delay and admit the appeal to be heard on merits after providing an opportunity of hearing to the assessee to present his case. I also caution the assessee to fully comply with the directions of the ld. Addl/JCIT(A)-1, Jaipur in the set-aside proceedings when called upon to do so, failing which, the ld. Addl/JCIT(A)-1, Jaipur would be at complete liberty to pass the order in accordance with law, based on material available on record even if it is ex-parte qua the assessee.

9. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 13/12/2024.

Sd/-  
[SUDHANSHU SRIVASTAVA]  
JUDICIAL MEMBER

DATED:13/12/2024

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR

By order

Assistant Registrar