

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "C" BENCH

**Before: DR. BRR Kumar, Vice President
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 1707/Ahd/2024
Assessment Year 2015-16**

Nagarbhai Amthabhai Prajapati 13, Sandipni Society, Thaltej Ahmedabad-380059 Gujarat PAN: CTSP2828L (Appellant)	Vs	The ITO, Ward-3(3)(1), Ahmedabad (Respondent)
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**Assessee Represented: Shri S.N. Divetia, A.R. &
Shri Samir Vora, A.R.**

Revenue Represented: Shri Rignesh Das, Sr.D.R.

Date of hearing : 12-12-2024

Date of pronouncement : 18-12-2024

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the ex-parte appellate order dated 12.06.2024 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the exparte assessment order passed under section 144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2015-16.

2. The Registry has noted that there is a delay of 46 days in filing the above appeal. The assessee explained by way of an Notarized Affidavit and that he is a Senior Citizen and engaged in agricultural activities not having assessable income and not aware of the online e-mail assessment proceedings. We are satisfied with the reasons and hence the delay of 46 days in filing the above appeal is hereby condoned.

3. Brief facts of the case is that the assessee sold his agricultural land situated at Khoraj District Gandhinagar for a sum of Rs.2.1 crores. Assessee was of the bonafide view the sale of agricultural land is exempt from taxation hence no Return of Income filed. The assessment was reopened by issuing notice u/s. 148 after recording reasons and served on the assessee. The assessee failed to comply any of the notices thereby the Assessing Officer considered the sale consideration of the land as undisclosed income of the assessee.

4. Aggrieved against the same, assessee filed belated appeal before Ld. CIT(A), who condoned the delay, however dismissed the appeal since assessee failed to furnish any evidence before him.

5. Aggrieved against the appellate order, assessee is in appeal before us raising the following Grounds of Appeal:

1.1 The order passed by U/s 250 passed on 12.06.2024 by NFAC (CITIA), Delhi (for short CITTA) upholding the addition of Rs.2,01,00,000/-towards sale consideration of agricultural land at village: Khoraj Ginagar made by A.O. is wholly illegal, unlawful and against the principles of natural justice.

2.1 The Id. CITIA), has grievously erred in law and or on facts in not appreciating that there could not be compliance to the notices claimed to be

issued by AO since the appellant is illiterate and ignorant about English & computer to which he had no access. Thus, there was a sufficient cause for failure to comply with the notices claimed to be issued by NFAC.

2.2 Both the lower authorities have failed to appreciate that there was no e service of the notices of hearing as found from the IT portal so that there was sufficient cause for alleged failure to respond to the notices of hearing issued by AO. On the contrary the appellant had furnished explanation with documents available and no further opportunity was allowed thereafter so that the appellant could not upload further documents to NFAC (CIT(A))

3.1 The Id. CITIA) has grievously erred in law and or on facts in upholding the addition of Rs.2,01,00,000/-towards sale consideration of agricultural land at village: Khoraj G'nagar made by A.O.

3.2 That the in the facts and circumstances of the Id. CITIA), ought not to have upheld the addition the addition of Rs.2,01,00,000/-towards sale consideration of agricultural land at village: Khoraj G'nagar made by A.O.

*4.1 Without prejudice to the above and in the alternative, both the lower authorities have erred in computing taxable capital gain without considering the indexed cost of acquisition and exemption u/s 54 towards investment of RS. 1,94,60,000/
It is, therefore, prayed that the addition of Rs.2,01,00,000/- upheld by the CIT(A) may kindly be deleted.*

6. Ld. Counsel appearing for the assessee submitted that the assessee being a senior citizen was of the bonafide view sale of agricultural land is exempt from taxation. However he is prepared to file all documents and evidences before the lower authorities, therefore requested for one more opportunity of hearing be given to the assessee.

7. Ld. CIT-DR submitted that the assessment being an exparte, the matter be set aside back to the file of Jurisdictional Assessing Officer by giving one more opportunity to the assessee.

8. Recording the above statement of both the parties, the orders passed by the lower authorities are hereby set aside with a direction to the Jurisdictional Assessing Officer to pass fresh order on merits by giving proper opportunity of hearing to the assessee. Needless to say, if the assessee fails to make use of this final opportunity, the Jurisdictional Assessing Officer is free to pass order in accordance with the provisions of law.

9. In the result, the appeal filed by the Assessee is allowed for statistical purpose.

Order pronounced in the open court on 18 -12-2024

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT
Ahmedabad : Dated 18/12/2024

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद