

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

BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA No.1218/Ahd/2024
Assessment Year: 2012-13**

Rasmikaben Kiranbhai Raval, A-93, Shakti Enclave, Judges Bungalow, Bodakdev, Ahmedabad – 380 054. [PAN – ABKPR 5668 N] (Appellant)	Vs.	Income Tax Officer, Ward – 3(3)(4), Ahmedabad. (Respondent)
Assessee by	Shri S.N. Divetia, AR & Shri Samir Vora, AR	
Revenue by	Shri N.J. Vyas, Sr. DR	
Date of Hearing	04.12.2024	
Date of Pronouncement	20.12.2024	

ORDER

This appeal is filed by the assessee against order dated 15.04.2024 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2012-13.

2. The assessee has raised the following grounds of appeal :-

"1. *The order passed by U/s.250 passed on 15.04.2024 by NFAC, [CIT(A)], Delhi (for short "CIT(A)" upholding the ex-parte assessment u/s.144 as well as additions aggregating to Rs.22.90,000/- made by A.O. is wholly illegal, unlawful and against the principles of natural justice.*

1. *The Id. CIT(A), 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 as well as the appellate authority on account of failure of the tax consultant who was duly forwarded the notices as evident from the mail id. She was under a genuine and bona fide belief that due compliance would be made by the tax consultant. Thus, there was a sufficient cause for failure to comply with the notices claimed to be issued by NFAC.*

3.1. *The Id. CIT(A) has grievously erred in law and or on facts in upholding the addition of Rs.18,30,000/- in respect of the sale price of immovable property as well as Rs.4,60,000/- towards cash deposits made in bank*

account No.4988 with Bhagyoday Co. Op. Bank Ltd., Memnagar Branch, Ahmedabad as unexplained investment.

3.2 *That in the facts and circumstances, the Id. CIT(A) ought not to have upheld the addition of Rs.18,30,000/ in respect of the sale price of immovable property as well as Rs.4,60,000/- towards cash deposits made in bank account No.4988 with Bhagyoday Co. Op. Bank Ltd., Memnagar Branch, Ahmedabad as unexplained investment.*

3.3 *That there being sufficient cause for failure to produce the details relating to the impugned additions, the appellant may be allowed to produce additional evidence during the course of the present appeal and the same may be admitted.*

It is, therefore, prayed that the additions upheld by the CIT(A) may kindly be deleted or in the alternative, the matter may be restored back to the file of AO for de novo determination of total income in accordance with law and after allowing the appellant to produce the details/documents.”

3. The return of income was not filed by the assessee. As per the information, it was observed that the assessee was involved in sale of immovable property transaction to the tune of Rs.37,30,000/-. The case of the assessee was reopened under Section 147 of the Income Tax Act, 1961. Notice under Section 148 of the Act was issued and served upon the assessee on 29.03.2019. The assessee did not file any return in response to notice under Section 148 of the Act. The Assessing Officer issued notice under Section 143(1) of the Act on 07.10.2019 and show cause notice was issued on 10.11.2019. Since the assessee has not filed return in response to notice under section 148 of the Act as well as not complied with the notices issued, the Assessing Officer passed assessment under Section 144 read with Section 147 of the Act on 27.11.2019 thereby making addition of Rs.18,30,000/-. In respect of capital gain in immovable property which was not explained by the assessee and Rs.4,60,000/- in respect of cash deposit thereby treating the same as unexplained investment in bank account.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the notices by the Appellate Authority i.e. CIT(A) was forwarded to the Tax Consultant of the assessee by the Department but the said Tax Consultant did not respond to the same and by the time the assessee was aware he changed the Tax Consultant. The assessee is a Senior Citizen and does not have any large income. The assessee received immovable property under consideration by way of inheritance on death of her Mother Late Smt. Bhagwatiben K. Vyas and applied the sale proceeds by way of booking property with Shreeji Developers so that she was under the view that assessee was no taxable gain liable to tax. The Ld. AR submitted that before the Assessing Officer and the CIT(A) the assessee could not appear as the assessee's Tax Consultant has not taken necessary steps to submit the details and represent her case property. Therefore, the Ld. AR submitted that the matter may be remanded to the file of the Assessing Officer for verification of the evidences.

6. The Ld. DR relied upon the Assessment Order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that non-representation of the assessee before both the Authorities and the reasons stated for that appears to be genuine. Hence, it will be appropriate to remand this matter to the file of the Assessing Officer for proper adjudication of the evidences produced by the assessee and, after verifying the same, adjudicate the issues on merit as per Income Tax Act. The assessee be given opportunity of hearing by following the principles of natural justice.

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

Order pronounced in the open Court on this 20th December, 2024.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 20th day of December, 2024

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Copies to:

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

By order

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*Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad*