

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI SUNIL KUMAR SINGH (JUDICIAL MEMBER)**

**ITA No. 5543/MUM/2024
Assessment Year: 2011-12**

Rekha Laxman Manjiramani,
104, Lloyds Estates, G Wing Near
Vidyalankar College,
Mumbai-400037.

**PAN NO. ANHPM 5246 N
Appellant**

National Faceless Appeal Centre,
Delhi, Income-tax Officer-19(3)(1),
Vs. Piramal Chambers, Lalbaug,
Mumbai-400012.

Respondent

Assessee by : Mr. Ashish Mehta
Revenue by : Mr. R.R. Makwana, Sr. DR

Date of Hearing : 18/12/2024
Date of pronouncement : 20/12/2024

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 04.09.2024 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2011-12, raising following grounds:

- 1. On the facts and in the circumstances of the case and in law, appellate order dated 04 September 2024 ("Order")*



passed by the National Faceless Appeal Centre, New Delhi ("NFAC") under section 250 of the IT Act is contrary to the facts and the law and, therefore, not tenable in law.

- 2. On the facts and in the circumstances of the case and in law, the NFAC erred in not granting adequate opportunity to the Appellant and accordingly impugned Order is violative of principles of natural justice and deserves to be quashed.*
- 3. On the facts and in the circumstances of the case and in law, the NFAC erred in confirming the action of the learned assessing officer ("Ld. AO") in initiating reassessment proceedings vide issuance of reopening notice dated 29 March 2018 under section 148 of the IT Act and passing of consequential assessment order dated 20 December 2018 under section 147 read with section 144 of the IT Act without appreciating the fact that they are bad in law, and, therefore, not tenable in law.*
- 4. On the facts and in the circumstances of the case and in law, the NFAC erred in confirming the action of the Ld. AO in initiating reassessment proceedings vide issuance of reopening notice dated 29 March 2018 under section 148 of the IT Act and passing of consequential assessment order dated 20 December 2018 under section 147 read with section 144 of the IT Act without appreciating the fact that the reopening notice was never served to the Appellant and thus the entire reassessment proceedings are bad in law, and, therefore, not tenable in law.*
- 5. On the facts and in the circumstances of the case and in law, the NFAC erred in confirming the action of the Ld. AO in initiating reassessment proceedings vide issuance of reopening notice dated 29 March 2018 under section 148 of the IT Act without appreciating the fact that no income chargeable to tax has escapement.*
- 6. On the facts and in the circumstances of the case and in law, the NFAC erred in confirming the action of the Ld. AO in making an addition of INR 82,23,500/- on account of alleged 'unexplained investment' under section 69 of the IT Act.*
- 7. On the facts and in the circumstances of the case and in law, the NFAC erred in confirming the action of the Ld. AO in making an addition of INR 67,11,000/- on account of alleged 'unexplained sale receipt.'*
- 8. On the facts and in the circumstances of the case and in law, the NFAC erred in confirming the action of the Ld. AO in levying consequential interest under the IT Act.*
- 9. On the facts and in the circumstances of the case and in law, the NFAC erred in not quashing the action of the Ld.*



AO of initiating penalty proceedings under section 271(1)(c), 271F of the IT Act.

2. Briefly stated facts of the case are that assessee had not filed its regular return of income for the year under consideration, therefore, assessment for the year under consideration was reopened u/s 147 of the Income-tax Act, 1961 (in short 'the Act') by way of issue of notice u/s 148 of the Act dated 29.03.2018 after recording the reasons to believe that income escaped assessment. During the reassessment proceedings, the Assessing Officer observed unexplained investment u/s 69 of the Act amounting to Rs.82,23,500/- and unexplained cash received of Rs.67,89,000/- but in view of the non-compliance of the notices issued by the assessee, the Assessing Officer made addition of Rs.1,49,34,500/- in order u/s 147 read with 144 of the Act passed on 20/12/2018.

3. On further appeal, the Ld. CIT(A) rejected the contention of the assessee and upheld the addition observing as under:

"5.1 During the appellate proceedings, the appellant has not furnished any cogent explanation about above said transactions. However, as per the submission made by the appellant, "The AO was wrong in treating the purchase of property of Rs. 82,23,500 as unexplained investment and Rs. 67, 11,000/- as undisclosed income. The Property was purchased and Sold by the appellant's husband namely Mr. Laxman Manjiramani and son Mr. Jitin Manji and capital gain was taxable in their hands only. The name of the appellant was merely added as a joint holder in the purchase and sale deed for good luck purpose." The appellant has also stated that no tax was liable on the long-term capital gain on transfer of property as the Capital Gain received from sale of the property in the same year towards purchase of another residential property. The appellant has furnished only sale & purchase deeds of the properties as documentary



evidences. On perusal of all the documentary evidence and available records, it has been observed that the appellant has not furnished any cogent explanation about above said transaction. The appellant has neither explained about source of purchase of the property which was sold on 03.07.2010 for Rs.67,11,000/- nor the source of additional amount i.e. Rs. 15,12,500/- (82,23,500-67, 11,000) to purchase another property for Rs.82,23,500/- on 12.07.2010. In view of these facts, the submission made by the appellant are not comprehensive and not accepted. In view of this, I have confirmed both the additions i.e. Rs.82,23,500/- & Rs. 67,11,000/- under the provision of the IT Act'1961, made by the A.O in the assessment order as discussed above."

4. Before us, the Ld. counsel for the assessee filed a Paper Book containing pages 1 to 65. The Ld. counsel only pressed ground No. 6 and 7 of the appeal and submitted that assessee had filed additional evidence before the Commissioner of Income-tax (Appeals) and the Commissioner had called for a remand report from the Assessing Officer. However there is no mention of the finding brought on record in remand report by the Assessing Officer and therefore, the order of the Ld. CIT(A) being in violation of Rule 46A of the Income-tax Rules, 1962, need to be set aside and matter may be restored back to the Ld. CIT(A) for deciding afresh.

5. On the contrary, the Ld. Departmental Representative (DR) relied on the order of the Ld. CIT(A).

6. We have heard rival submission of the parties and perused the relevant material on record. The Ld. counsel for the assessee submitted that assessee along with other two family members had purchased a property whereas money was contributed by the other



members and the assessee's name was only included being a family member. She did not contribute any sum for the purchase of the property. But we find that there is no finding on the record that source of the investment in property was submitted by the assessee before the Assessing Officer. On perusal of the Paper Book page 3 to 5, we find that the Assessing Officer has called for submission of the assessee on the additional evidences which were filed before the Ld. CIT(A) and the assessee had duly filed a reply , which is available on PB-6 , but in impugned order of ld CIT(A), there is no reference of any remand report sent by the Assessing Officer or comment of the Assessing Officer on additional evidences. In our opinion, probably this might be for the reason that the remand report was called for on the additional evidences filed before the Jurisdictional First Appellate Authority, whereas the impugned appellate order has been passed by the Faceless Appellate Authority and therefore, probably that remand report if any sent by the jurisdictional Assessing Officer must not have been forwarded to the Faceless Appellate Authority. The impugned appellate order therefore has been passed without taking into consideration comment of the AO on the additional evidences. In the circumstances, we feel it appropriate to restore the matter back to the file of the Ld. CIT(A) for deciding the matter following the Rule 46A of the Rules and if any such remand report has already been submitted by the jurisdictional Assessing Officer same may be considered while deciding the issue in dispute. Accordingly, the



issue in dispute involved in the case is restored back to the file of the Ld. CIT(A) for deciding afresh after complying the provisions of the Rule 46A of the Rules. The ground Nos. 6 and 7 of the appeal are accordingly allowed for statistical purposes. The other grounds are rendered merely academic and therefore, we are not adjudicating upon the same.

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

Order pronounced in the open Court on 20/12/2024.

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 20/12/2024
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai