

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'F' NEW DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER  
AND  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No. 3694/Del/2024  
(Assessment Year : 2017-18)

<b>Talat Khan</b> Altaf Manzil, Vill and PO Kailashpur, Saharanpur Uttar Pradesh-247 001  <b>PAN : AQZPK 7964 L</b> (Appellant)	Vs.	<b>ITO</b> Ward – 3(3)(5) Saharanpur  (Respondent)
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Assessee by	-None-
Respondent by	Ms. Harpreet Kaur Hansra, Sr. D.R.

Date of Hearing	19.12.2024
Date of Pronouncement	19.12.2024

**ORDER**

**PER VIMAL KUMAR, JM:**

1. The appeal filed by assessee is against the order dated 17.10.2023 of Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Ld. CIT(A)'] arising out of assessment order dated 10.12.2019 by the ITO, Ward – 3(3)(5), Saharanpur (hereinafter referred as 'Ld. AO') under section 143(3) of the Income Tax Act, 1961 [hereinafter referred to as "the Act"] for the Assessment Year 2017-18.
2. Brief facts of case are that appellant-assessee filed return disclosing income of Rs.6,88,630/- and agriculture income

Rs.5,00,000/- . The assessee received Rs.1,17,60,000/- from sale of land. The amount was invested in purchase of flat within the stipulated time and claimed exemption under section 54F of the Act. During the assessment proceedings, the claim of assessee was rejected by learned AO vide order dated 10.12.2019.

3. Appellant-assessee preferred appeal before the learned CIT(A). Learned CIT(A) dismissed the appeal in absence of assessee.

4. Being aggrieved, appellant-assessee preferred present appeal with the following grounds :

- “1. Because the Assesses has claimed an exemption under section 54F of Income Tax Act as the assesses has sold his plot and the consideration which she got was invested in a project as assesses bought 2 three bhk flat in Sarvoch Residency (Earlier It was Holy Heights) Dehradun by way of an agreement dated 2016.*
- 2. Because the assessee invested the money in a residential house by booking 2 three bhk flats in housing society in Dehradun, the same was proposed by the Builder who has been served with a notice under section 133 of IT Act. The malafide of the builder can be gauged from the fact that the consideration for the land was paid in August 2016 and the same amount was invested on false pretext of the Builder on 21 August 2026. The assessee then claimed an exemption under section 54F of income Tax Act.*
- 3. Because the project in which the Assessee has invested the consideration which she got from selling a plot that project got on hold due to malafide of the builder the possession which was supposed to be delivered to the assessee by 2019 went into the cold bag.*

4. *Because it is the fault of builder who failed to give the said flats to assessee on time, the time limit got exceeded as per the Section 54F of the act and the exemption claimed by the assessee was disallowed on the account that three years' period have already elapsed but assessee continued to be without possession of the two flats as promised to Assessee by the builder.*
  5. *That the builder even after the passing of the period of three years starting from 2016 neither extended the possession nor provided any document for the delayed possession. For the same the assessee served with a legal notice as well as complaint to the local police for the cheating and forgery.*
  6. *Because when the legal complaint was filed the Builder provided another possession letter issued from 2019 and in that letter of possession a new date of possession was given which was 2023 but till date no possession has been given.*
  7. *Because an appeal was filed before the CIT(A) on 17.01.2020 under section 248 of IT Act. An order dated 17.10.2023 was passed by the CIT(A) in the said appeal, without considering the delay in acquiring possession as bonafide and hence dismissing the appeal.*
  8. *Because, the direction is given by the Hon'ble Allahabad High Court in Civil Misc. Tax Writ No. 1009 of 2024, to file an appeal before Income Tax Appellate Tribunal against the order dated 17.10.2023 passed by the CIT(A).*
  9. *Because the Assessee is an old age woman (71 years old), and she is a house wife with not having sufficient knowledge to understand the complexities of tax rules, because of which she was easily defrauded and cheated by the builders.*
  10. *Because, the C.A. of the assessee has not submitted any of the documents and evidences as being necessary to be submitted for claiming the grounds in the appeal before CIT(A).”*
5. At the time of hearing of the matter, none appeared on behalf of the assessee. Hence, we proceed with the same *ex parte*.

6. Learned Departmental Representative for the Department of Revenue submitted that the assessee had failed to appear before the learned CIT(A).

7. From examination of record in light of aforesaid rival contentions, it is crystal clear that learned CIT(A) dismissed appeal of assessee through an *ex parte* order. Appellant-assessee had failed to appear before the learned CIT(A) despite notices for hearing dated 05.02.2021, 31.07.2023 & 21.08.2023. Appellant-assessee is a 71 years old age women and the Chartered Accountant of the assessee had not submitted any documents. In view of the above material facts, in interest of justice, it is considered expedient to restore the matter to the file of the learned CIT(A) for fresh decision in accordance with law.

8. In the result, appeal filed by the assessee is allowed for statistical purposes.

**Order was pronounced in the open court on 19<sup>th</sup> December, 2024**

**Sd/-**  
**(PRADIP KUMAR KEDIA)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(VIMAL KUMAR)**  
**JUDICIAL MEMBER**

Dated: 19.12.2024

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI