

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 5735/MUM/2024
(Assessment Year : 2018-19)**

Sita Sudhir Hotkar Flat No. 604, Plot No. A7, Sector 16, ULWE Mumbai – 410206	Vs.	I.T.O. 27(3)(1), Mumbai Vashi Railway Station Building, Vashi – 400703
PAN/GIR No.AMIPH3747D		
(Appellant)	..	(Respondent)

Assessee by	Shri Ashish A. Thakurdesai
Revenue by	Shri Mahesh Pamnani (Sr DR)
Date of Hearing	19/12/2024
Date of Pronouncement	31/12/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 06/08/2024 passed by NFAC, Delhi for the quantum of assessment u/s.147 r.w.s. 144 of the Act for the A.Y.2018-19.

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

1. *On facts, in circumstances of the case and in law, the learned CIT-A, National Faceless Appeal Centre erred rejecting the condonation of delay request of the appellant and in dismissing the appeal without going into the merits of the appeal.*

2. On facts, in circumstances of the case and in law, the learned CIT-A, National Faceless Appeal Centre ought to have held that reopening assessment of the appellant u/s 147/148 of the Income Tax Act, 1961 is bad in law.

3. On facts, in circumstances of the case and in law, the learned CIT-A, National Faceless Appeal Centre erred in confirming Rs. 1,18,66,200/- as unexplained investment u/s 69.

4. On facts, in circumstances of the case and in law, the learned CIT-A, National Faceless Appeal Centre erred in confirming interest u/s 234A & u/s 234B of Income Tax Act, 1961 amounting to Rs. 50,41,630/- & Rs. 54,99,960/- respectively.

5. On facts, in circumstances of the case and in law, the learned CIT-A, National Faceless Appeal Centre erred in confirming fees for default in furnishing return of income u/s 234F of Income Tax Act, 1961 amounting to Rs. 10,000/-.

6. The appellant craves leave to add, alter, modify or delete any of the above Grounds of Appeal.

3. The brief facts are that assessee is an individual who is a house-wife and has not filed any return of income as she does not have any kind of income. In this case, information was received on inside portal of Income Tax Department that income chargeable to tax has escaped assessment in the case of the assessee and accordingly, notice u/s. 148A (b) of the Act was issued. Since, there was no submission filed by the assessee, accordingly, notice u/s.148 was issued on 31/03/2022 after obtaining the approval from Id. PCIT. As per the information, the assessee has made some unexplained investment for purchase of property of Rs.1,18,66,200/- and accordingly, various notices were issued, however, assessee could not respond to notices sent

on ITBA portal and accordingly, entire addition was made u/s.69 of Rs.1,18,66,200/- and tax was charged u/s.115EBE @ 60%.

4. The ld. CIT (A) too dismissed the appeal holding that there was a delay in filing of appeal about 227 days. It has been informed that assessee could not receive order of ld. AO itself and therefore, assessee was not even aware of such order being uploaded in ITBA portal, because assessee being a house-wife was not aware of any such proceedings and she was not filing any regular return of income.

5. Regarding addition made in her hand, it has been stated that her son, Mr. Gajanan Sudhir Hotkar who was non-resident and was employed in USA had sent the money from US to buy the properties in his father's and mother's name. In fact he had bought two property, one for Rs.1,02,66,200/- and other for Rs.32,00,000/-. It has been brought on record that in the case of her son, Mr. Gajanan Sudhir Hotkar, assessment was passed u/s.147 r.w.s. 144 of the Act based on same information wherein after detail examination, the source of investment with regard to one property for Rs.1,02,66,200/- has been accepted to be from his own resources which he has explained. Thus, to the extent of Rs.1,02,66,200/- addition cannot be added in the hands of the assessee. In so far as other property purchased for Rs.30,00,000/- also, the source was also from the son through his remittance in the bank account from US.

6. Since the assessment has been decided *exparte*, therefore, in the interest of justice, the matter is restored for the limited purpose that in so far as investment in one property for Rs.1,02,66,200/- which has been accepted to be invested by her son Shri Gajanan Sudhir Hotkar, then no addition should be made; and secondly, as regards other property for sum of Rs.30,00,000/-, the ld. AO is directed to verify whether this property has been purchased from the funds / sources given by her son and if that is the case then, no addition should be made. For this limited purpose, the matter is restored back to the file of the ld. Jurisdictional AO (JAO) and assessee should comply with the notice and substantiate the source from her son for the purchase of second property for Rs.30,00,000/-.

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

Order pronounced on 31st December, 2024.

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Mumbai; Dated 31/12/2024
KARUNA, *sr.ps*

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

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,

(Asstt. Registrar)
ITAT, Mumbai