

IN THE INCOME TAX APPELLATE TRIBUNAL PANAJI BENCH
PANAJI

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI G D PADMAHSHALI ACCOUNTANT MEMBER

I T A. Nos. 271/PAN/2024
(A.Y. 2015-16)

Naeemakhtar Faniband, No.3827/1, Kotwalgalli, Belgaum-590001, Karnataka.	Vs .	I T O, National e Assessment Centre, Delhi.
PAN .No. AATPF0493K		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	Shri.Kuntusagar V Haradi.AR
Revenue by	Shri.Capt Pradeep Arya.DR

सुनवाई की तारीख/Date of Hearing	03.03.2025
घोषणा की तारीख/Date of Pronouncement	05.03.2025

ORDER

PER PAVAN KUMAR GADALE, JM:

The appeal is filed by the assessee against the order of NFAC/CIT(A) passed u/sec 144 r.w.s147 and u/sec 250 of the Act. The assessee has raised the grounds of appeal challenging the order of the CIT(A) sustaining the additions made by the Assessing Officer.

2. The Brief facts of the case are that, the assessee has not filed the return of income for the A.Y.2015-16. The Assessing Officer (AO) based on the information found that the assessee has purchased the property and there is

difference in the market value as per sub registrar Belgavi and sale consideration mentioned in the sale deed. Hence the A.O has reason to believe that the income has escaped the assessment and has issued notice u/sec148 of the Act and there was no response. Further the A.O has issued notice u/sec 143(2) and u/sec 142(1) of the Act and the explanations were called to substantiate the sources of investment and cash deposits in the bank account and there was no compliance. Since, no explanations/details were filed, the AO considering the information available on record has invoked the provisions of Sec. 144 of the Act and made addition (i) under section 69A of the Act of Rs.3,45,41,777/- (ii) under section 56(2)(vii)(b) of the Act of Rs.1,22,20,000/- and (iii) unexplained investment u/sec69 of the Act of Rs.1,42,00,000/- and assessed the total income of Rs.6,09,61,777/- and passed the order u/sec147 r.w.s 144 of the Act dated 25.04.2023.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and since there was no proper compliance by the assessee to notices. Therefore the CIT(A) considering the information on record has rejected the additional evidences as the assessee has not followed the provisions of Rule 46A(1) of the Income Tax rules 1962 and the CIT(A) has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order

of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the Assessing officer overlooking the information of the assessment proceedings and the CIT(A) has erred in rejecting the additional evidence filed in the appellate proceedings. Further the assessee has a good case on merits and shall substantiate with the material evidences and prayed for an opportunity to explain before the lower authorities. Per Contra, the Ld.DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no proper compliance in spite of providing adequate opportunity of hearing and the notices were issued. Therefore, the CIT(A) observed that in the assessment proceedings also, the assessee has not participated in spite of providing sufficient opportunities and A.O has passed the assessment order u/sec147 r.w.s 144 of the Act and also the assessee has not complied the provisions of Rule 46A(1) of the Income Tax rules 1962 and has rejected the additional evidence and dismissed the appeal. Whereas the assessee has raised grounds of appeal challenging the additions by the A.O and there could be various reasons for not explaining the sufficient reasons in filing the new evidences before the CIT(A) and the assessee has ignored

the procedures which cannot be overruled. Therefore, considering the facts and principles of natural justice, we shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information subject to payment of cost of Rs.2,000/- to the Income Tax Department within one month from the date of receipt of the order and produce the proof of payment. Accordingly, we set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information. And we allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 05.03.2025.

Sd/-
(GD PADMAHSHALI)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Panaji Dated: 05/03/2025

Copy of the Order forwarded to:

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT,
6. Guard file.

//True Copy//

BY ORDER,
(Asstt. Registrar)ITAT,
Panaji

		Date	<u>Initial</u>	
1.	Draft dictated on			PS
2.	Draft placed before author			PS
3.	Draft proposed & placed before the second member			PS
4.	Draft discussed/approved by Second Member.			PS
5.	Approved Draft comes to the Sr.PS/PS			PS
6.	Kept for pronouncement on			
7.	File sent to the Bench Clerk			
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			
11.	Dictation Pad is enclosed			