

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

**BEFORE SH. BAGIRATH MAL BIYANI, ACCOUNTANT MEMBER
AND SH. UDAYAN DAS GUPTA, JUDICIAL MEMBER**

**I.T.A. No.513/Ind/2024
Assessment Year: 2011-12**

Super Life Real Estate Developers Pvt. Ltd. Indore, M.P. [PAN:AAMCS9510L] (Appellant)	Vs.	ITO, Indore. (Respondent)
---	-----	-------------------------------------

Appellant by	Sh. Pankaj Shah, AR
Respondent by	Sh. Ram Kumar Yadav, CIT. DR

Date of Hearing	29.01.2025
Date of Pronouncement	17.03.2025

ORDER

Per: Udayan Das Gupta, JM

This appeal is filed by the assessee against the order of the Id. CIT(A), NFAC, Delhi, passed u/s 250 of the Act 1961 dated 13.06.2024 which has emanated from the order of the ITO, Ward-5(3), Indore, (in short the AO) u/s 144/147 of the IT Act dated 22.12.2018 for A.Y. 2011-12.

2. The grounds of appeal preferred by the assessee as per memorandum of appeal are as under;

“1. On the facts and circumstances of the case and in law the learned CIT(A) erred sending notices on wrong email-id i.e. onlineitr_cl@yahoo.in instead of pankaiqshah@gmail.com as stated in Form 35. The Appellant prays that the EXPARTE order of CIT(A) passed without serving the notices on correct email id be directed to be quashed and set aside.

2. On the facts and circumstances of the case and in law, the learned Commissioner of Income tax (Appeals) ("CIT(A)") erred in exparte dismissing the appeal of the Assessee and thereby confirming the addition made by the Assessing Officer. The Appellant prays that the said order be set aside to the CIT(A) for hearing on merits.

3. On the facts and circumstances of the case and in law the learned CIT(A) erred in confirming the addition of Rs. 3,29,12,500/- which is prayed to be deleted.

4. The Appellant craves leave to add to, alter and/or amend all or any of the foregoing grounds of appeal.”

3. The facts emerging from the case are that the assessee company has filed its regular return for the year declaring total income of Rs. 3,24,910/- and on the basis of information gathered by the AO that the assessee has invested in purchase of land amounting to Rs.2.82 crores and has made cash deposit in S/B A/c amounting to Rs. 47 lakhs during the FY 2010-11 (relevant to the assessment year under

appeal), the case was reopened vide notice u/s 148 dated 29/03/2018, issued through email and also by post.

3.1 Subsequently, in absence of any compliance or any response from the assessee, to notices issued by the AO u/s 142(1) of the Act 61, and in absence of any explanation or submission being filed by the assessee in response to various letters and communications from the AO, the assessment has been completed *ex parte* on a total income of Rs. 3.32 crores (*with an addition of Rs. 47 lakhs plus Rs. 2.82 crores u/s 68 of the Act 61*).

4. The matter was carried in appeal before the Ld. CIT (A) NFAC, and the first appellate authority has dismissed the appeal for non-compliance of the assessee to various notices issued on at least ten (10) different dates of hearing, (*as stated in page 2 and 3 of the appellate order*), without adjudicating the appeal on merits of the case, which of course was not possible in absence of any documentary evidence on record.

5. Before the tribunal the Ld. AR of the assessee submitted that no opportunity of hearing or representing the case has been granted to the assessee, because all notices u/s 250 of the Act 61, has been issued through ITBA portal (*as evident from the appeal order para – 3.1*).

5.1 He further submits that even though the mail id for issue of notice was specifically stated in Form 35 as pankajgshah@gmail.com, no notices has been

issued to the said mail id and he submits in the grounds that the same has been issued to a wrong mail id onlineitr_cl@yahoo.in , which has resulted in no notices being effectively served on the assessee , because issue of notice in portal alone is not complete service.

6. The Ld. DR relied on the order of CIT (A) but could not confirm as to whether notice has been issued and served on the given mail id stated in Form 35.

7. We have heard the rival submissions and considered the materials available on record and we find from the appellate order that notices of hearing has been issued on ten separate occasions through ITBA portal instead of e-mail ID provided in the Form 35.

7.1 We also find that in the instant case, orders has been passed *ex parte* at both stages, before the AO as well as before the Ld. first appellate authority, and the grievance of the assessee before the tribunal as well as before the Ld. CIT(A) (*as evident from Form 35*) was that proper opportunity of hearing has not been granted by the AO to explain the cash deposit in bank and for explaining the source of investment in land.

7.2 Even though the assessee has prayed for remand of the matter to the Ld. CIT (A) (*as per his grounds of appeal*), we are of the opinion that interest of justice would be served if the matter is set aside back to the file of the AO for fresh assessment, because in the instant case the assessee will have to explain the source

of cash deposit in bank account (*vis a vis cash book*) and will also need to explain the source of investment made for purchase of land, with supporting documentary evidences , to full satisfaction of the assessing officer.

8. As such we set aside the matter back to the files of the AO for fresh assessment, as per provisions of law, after allowing reasonable opportunity of being heard to the assessee (*through proper notice issued as per provisions of section 282 of Act 61 read with Rule 127 of IT Rules '62*), and the assessee is also directed to file all necessary supporting documents and explanations to substantiate its case.

9. Since we have remanded the matter to the AO the grounds on merits are not adjudicated by us.

10. In the result, the appeal of the assessee bearing **ITA No. 513/Ind/2024** is allowed for statistical purposes.

Order pronounced on 17.03.2025 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.

Sd/-
(BAGIRATH MAL BIYANI)
Accountant Member
AKV

Sd/-
(UDAYAN DAS GUPTA)
Judicial Member

Copy of the order forwarded to:

(1)The Appellant

- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By order

		Date	Initial	
1.	Draft dictated on	11.03.25		Sr.PS/ PS
2.	Draft placed before author	11.03.25		Sr.PS/ PS
3.	Draft proposed & placed before the Second Member			JM/A M
4.	Draft discussed/approved by Second Member			JM/A M
5.	Approved Draft comes to the Sr. P.S./P.S.			Sr.PS/ PS
6.	Kept for pronouncement on			Sr.PS/ PS
7.	File sent to the Bench Clerk			Sr.PS/ PS
8.	Date on which file goes to the Head Clerk			
9.	Date on which file goes to the AR			
10.	Date of dispatch of Order			