

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

SMC MATTER

ITA no.591/Nag./2024
(Assessment Year : 2014-15)

Jayesh Rampal Shahu
262, Small Factory Area
Bagadganj, Nagpur 440 008
PAN – BDCPS7910K

..... Appellant

v/s

Income Tax Officer
Ward-4(3), Nagpur

..... Respondent

Assessee by : Shri Kapil Hirani
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 03/04/2025

Date of Order – 04/04/2025

ORDER

The captioned appeal by the assessee is emanating from the impugned order dated 30/09/2024, passed by the learned Commissioner of Income Tax (Appeals)-6, Delhi, [*learned CIT(A)*], for the assessment year 2014-15.

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

"1. On the facts and circumstances of the case and in law, the CIT(A) grossly erred in dismissing the appeal of the Appellant ex parte, without giving proper opportunity of hearing and without considering the facts and merits of the case, which makes the order of CIT(A) illegal and violative of principles of natural justice and accordingly liable to be set aside and the appeal of the Appellant deserves to be properly adjudicated on merits as per law and in the interest of justice.

2. On the facts and circumstances of the case and in law, the assessment as completed is illegal, invalid, and violative of the principles of natural justice,

without proper appreciation of facts and law and which deserves to be quashed as per law and in the interest of justice.

3. On the facts and circumstances of the case and in law, the AO has grossly erred in making and the CIT(A) has grossly erred in confirming the addition of Rs. 4,90,000 under section 56(2)(vii)(b)(ii) of the Income Tax Act, 1961 representing the difference in stamp duty valuation of agricultural land purchased vis-à-vis the purchase consideration paid by the Appellant ignoring the fact that the impugned land is an agricultural land and as such the provisions of section 56(2)(vii)(b)(ii) of the Income Tax Act, 1961 does not apply to the same making the impugned addition of Rs. 4,90,000 grossly illegal and liable to be deleted as per law and in the interest of justice.

4. On the facts and circumstances of the case and in law, the AO has grossly erred in making and the CIT(A) has grossly erred in confirming the addition of Rs. 4,90,000 under section 56(2)(vii)(b)(ii) of the Income Tax Act, 1961 representing the difference in stamp duty valuation of agricultural land purchased vis-à-vis the purchase consideration paid by the Appellant without referring the property for valuation as mandatorily required under law making the impugned addition bad in law and liable to be deleted in the interest of justice.

5. On the facts and circumstances of the case and in law, the purchase of immovable property having been made at prevailing market rates, the addition of Rs. 4,90,000 under section 56(2)(vii)(b)(ii) of the Act is, illegal and liable to be deleted as per law and in the interest of justice.

6. The Appellant craves leave to add, amend, alter, vary and / or withdraw the above grounds of appeal with the kind permission of the Hon'ble Tribunal."

3. The learned CIT(A) has passed ex-parte order by dismissing the appeal of the assessee. The relevant findings of the learned CIT(A) read as under: –

"Determination and Decision

5. In this case, the appellant has not effectively pursued the appellate proceedings, rather not pursued his case at all, despite the service of notices as mentioned in para 3 above. Notices as mentioned above were sent, but there was no response from the appellant.

5.1 Finally a notice dated 05.08.2024 was sent to the appellant requiring compliance on 12.08.2024 whereby it was specifically stated that a final opportunity is given to furnish to the appellant to file written submission/evidence & proof in support of his contention on or before the scheduled date as mentioned in the said notice, failing which it shall be presumed that the appellant has no explanation to offer/no proof or evidence in support of his contention, and appeal would be decided accordingly.

5.2 All the notices were delivered. The same is evidenced from the details available on the e-filing portal. There was no response whatsoever not even with the purpose to seek an adjournment.”

4. The learned CIT(A), for reaching to the above findings, also relied upon certain judicial pronouncements. The learned CIT(A), on the basis of material available on record before him, dismissed the appeal filed by the assessee.

5. Before us, the learned Counsel for the assessee submitted that the learned CIT(A) passed an ex-parte order and prayed that one opportunity may be granted by restoring the matter to the file of the learned CIT(A) to enable the assessee to substantiate its case before the learned CIT(A) and furnish documents as desired.

2. On the other hand, the learned D.R. submitted that despite the learned CIT(A) provided sufficient opportunities to the assessee, however, the assessee did not appear before the learned CIT(A) and not furnished relevant details. He strongly supported the order passed by the learned CIT(A).

3. I have heard both the parties, perused the materials available on record and gone through orders of the authorities below. Though the learned CIT(A) granted opportunities to the assessee to substantiate its case, ultimately, the order passed by him is an ex-parte order. Therefore, I am of the opinion that by following the principles of natural justice, one opportunity should be given to the assessee to substantiate the case before the learned CIT(A). In view of the above, the order passed by the learned CIT(A) is set aside and remit the matter to the file of the learned CIT(A) and direct him to adjudicate the matter afresh on merit and in accordance with law after providing reasonable

opportunity of being heard to the assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason. Accordingly, all the grounds raised by the assessee in this appeal are allowed for statistical purposes.

4. In the result, assessee's appeal is allowed for statistical purposes.
Order pronounced in the open Court on 04/04/2025

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 04/04/2025

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur