

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, NAGPUR

BEFORE SHRIPAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA no.403/NAG/2025
(Assessment Year :2019-20)

Kunda Mahadev Gayakwad,
Plot.No.B-60,
Murlidhar Society,
Koradi Road,
Nagpur 441111,
Maharashtra.
PAN – CPMPG5995R

..... Appellant

v/s

Income Tax Officer
Ward-2(3), Nagpur,
Maharashtra.

..... Respondent

Assessee by:Shri.Madhao Vichore.A.R.
Revenue by :Shri Surjit Kumar Saha.Sr. D.R.

Date of Hearing – 09/10/2025

Date of Order – 10/10/2025

ORDER

The assessee has filed the appeal against the order dated 22/04/2025 passed by the CIT(A)/ National Faceless Appeal Centre(NFAC), Delhi, under section 144 r.w.s 147 and u/sec 250 of the Income Tax Act, 1961 (for short "*the Act*") for the A.Y. 2019-20. The assessee has raised the following grounds of appeal:-

"1. On the basis of facts and circumstances of the case, Learned Assessing Officer erred in making addition of Rs. 31,44,000/- under the head Long Term Capital Gain.

2. On the basis of facts and circumstances of the case, Learned Assessing Officer erred in not allowing the deduction under section 54 of Income Tax Act, 1961 since the Assessee has not filed Income Tax Return.

3. On the basis of facts and circumstances of the case, Commissioner of Income Tax (Appeal) erred in not considering the submission made by Assessee before passing the Order under section 250 of Income Tax Act, 1961.

4. The assessee reserves right to amend, drop, alter and raise new grounds of appeal as per due procedure of the law.”

2. The brief facts of the case are that, the Assessing Officer has received information that in the F.Y. 2018-19, the assessee has sold immovable property of Rs.32,00,000/- and the assessee has not filed the return of income for A.Y.2019-20. The Assessing Officer has reason to believe that the income has escaped assessment and issued notices u/sec 148 of the Act and there was no compliance. The assessee was also served with notice under section 142(1) of the Act on various dates and show cause notice was issued on 6.12.2023. Whereas, the assessee in lieu of show cause has filed a reply on 15/01/2024, claiming deduction u/sec 54F of the Act. The Assessing Officer observed that since the assessee has not filed return of income and therefore the claim cannot be allowed. Further, the Assessing Officer has computed long term capital gains of Rs.31,44,000/- and made addition of interest income of Rs.10,717/- and assessed the total income of Rs.31,54,717/- and passed the order u/sec 144 r.w.s. 147 dated 20/02/2024. Aggrieved by the order, the assessee has filed the appeal before the CIT(A).

3. In appellate proceedings, the CIT(A) has considered the grounds of appeal, statement of facts, findings of the Assessing Officer and issued notices of hearing on various dates. Since there was no compliance to the notices by the assessee, the CIT(A) considering the information on record has confirmed the action of the Assessing Officer and dismissed the appeal of the assessee. Aggrieved by the order of the CIT(A), the assessee has filed appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Id. A.R. for the assessee submitted that the CIT(A) has erred in sustaining action of the assessing officer overlooking the submissions filed in the assessment proceedings. Further, the Ld.AR submitted that the assessee has a good case on merits and prayed for an opportunity to substantiate the claim with material evidences and information before the lower authorities. Per-contra, the learned Departmental Representative supported the order of the CIT(A).

5. Heard the rival submissions and perused the material available on record. The CIT(A) has dismissed the assessee's appeal, as there was no compliance to the notices issued in the appellate proceedings on various dates dealt at Page 3 Para 5.2 of the order. Further the CIT(A) is of the opinion that the assessee is not interested in prosecuting its appeal and has confirmed the action of the Assessing Officer. Whereas, the learned A.R. in the course of hearing, submitted that the assessee has a good case on merits and shall substantiate with material evidences before the

authorities. Whereas, the assessee has raised grounds of appeal challenging the action of the assessing officer. There could be various reasons for non-compliance by the assessee which cannot be ruled out. Hence, considering the facts, circumstances, submissions of the learned A.R and to meet the ends of justice, the assessee should be provided one more opportunity for hearing. Accordingly, the order of the CIT(A) is set aside and restore the disputed issues to the file of the Assessing Officer to adjudicate issues afresh on merits based on the evidences and the assessee should be provided adequate opportunity of hearing and the assessee should co-operate in submitting the information for early disposal of appeal. And the grounds of appeals of the assessee are allowed for statistical purposes.

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

Order pronounced on /10/2025 as per rule 34(5) of the ITAT Rules1963

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

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