

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

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA no.454/Nag./2025
(Assessment Year : 2016-17)

Mulchand Jaganath Ragit,
Plot no.6, N/R Sweeming Pool, Wadi
Dawat Wadi, Nagpur 440 023,
Maharashtra.

..... Appellant

v/s

Income Tax Officer
Ward-3(4), Nagpur

..... Respondent

Assessee by: Shri.Abhay Agrawal. 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 22/03/2025, passed by the CIT(A)/ National Faceless Appeal Centre(NFAC), Delhi, u/sec 147 r.w.s144 and u/sec 250 of the Income Tax Act, 1961 (for short "*the Act*") for the A.Y. 2016-17. The assessee has raised the following grounds of appeal:-

"1. The learned CIT(A) erred in dismissing the appeal ex-parte without considering the merits of the case and without providing adequate opportunity of being heard.

2. The learned CIT(A) erred in not appreciating that, the notice issued u/s 148 was bad in law.

3. The learned CIT(A) erred in confirming the action of learned AO in making an addition on account of capital gains arising from sale of immovable property under section 45 r.w.s50C at Rs. 11,54,870.

4. The learned AO erred in not providing complete benefit of deduction towards cost of acquisition, improvement, and indexation thereon while computing the long-term capital gain.

5. The Appellant prays leave of the Hon'ble Tribunal to add, amend, alter any of the Grounds of Appeal."

2. The Ld.AR submitted that there is a delay of 49 days in filing the appeal before the Hon'ble Tribunal and the assessee has filed an affidavit for condonation of delay explaining the sufficient cause. Whereas the facts mentioned in the Affidavit are reasonable and the learned D.R. has no specific objections. Accordingly, the delay is condoned and the appeal is admitted.

3. Brief facts of the case are that the assessee has filed the return of income for the A.Y. 2016-17 on 10/08/2016 disclosing a total income of Rs.6,80,910/-.The Assessing Officer has received information that the assessee along with 7 others has sold agricultural lands and this fact was not disclosed in the return of income filed and the Assessing officer has reason to believe that income has escaped assessment notice u/sec 148 of the Act was issued and there was no compliance. Further notice u/sec 142(1) of the Act was issued along with questionnaire. The assessee has filed the submissions and also the objections were filed in respect of issue of notice under section 148 of the Act.The Assessing Officer has dealt on the facts and objections and finally issued show cause notice

proposing the addition. Since there was no additional information/details were filed by the assessee, the Assessing Officer considering the information has worked out Long term capital gains towards the assessee share Rs.11,15,487/- on sale of property and passed the order u/sec 147 r.w.s.144 r.w.s.144B of the Act dated 30/03/2022. The assessee being aggrieved by the order has filed the appeal before the CIT(A).

4. 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.

5. At the time of hearing, the learned Authorised Representative for the assessee (for short "*the learned A.R.*") 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).

6. 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. Further the CIT(A) is of the opinion that the assessee is not interested in prosecuting the appeal and confirmed the action of the Assessing Officer. 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 CIT(A) to adjudicate issues afresh on merits 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.

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

Order pronounced in the open Court on 10/10/2025

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