

IN THE INCOME-TAX APPELLATE TRIBUNAL “D” BENCH,
MUMBAI

BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No.4405/MUM/2025
(A.Y. 2018-19)

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| Ramsaray Jagdevprasad Kewat 01, Sevak Nagar, K.A. Road, Jarimari, Mumbai - 400072, Maharashtra | v/s. बनाम | Income Tax Officer, National e-Assessment Centre, Delhi - 110 001 |
| स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: ATCPK2347K | | |
| Appellant/अपीलार्थी | .. | Respondent/प्रतिवादी |

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| Appellant by : | None |
| Respondent by : | Shri Annavarani Kosuri (Sr.AR) |

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| Date of Hearing | 11.09.2025 |
| Date of Pronouncement | 13.10.2025 |

आदेश / ORDER

PRABHASH SHANKAR [A.M.] :-

The present appeal is filed by the assessee against the order passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] pertaining to assessment order passed u/s. 144 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] dated 27.04.2021 for the Assessment Year [A.Y.] 2018-19.

2. The grounds of appeal are as under:

1. The learned Assessing Officer (AO) and Commissioner of income Tax (Appeals) [CIT(A)] erred in law and on facts by treating Rs. 80,38,000 as Long Term Capital Gains on the alleged sale of property, whereas the



appellant had in fact purchased the said property and no capital gains accrued.

2. The authorities below erred in relying solely on incorrect AIR information without independent verification or inquiry, leading to an arbitrary addition of Rs. 80,38,000 to the appellant's income.
3. The ex-parte assessment order passed under Section 144 is bad in law as it was made without affording proper and reasonable opportunity to the appellant, thereby violating the principles of natural justice.
4. The CIT(A) further erred in dismissing the appeal without proper consideration of the appellant's submissions, documentary evidence, and merits of the case.
5. The addition made is contrary to settled principles of law as laid down by the Hon'ble Courts, including CIT v. Laxminarain Badridas and ITO v. Vijay Kumar Ghai.

3. Brief facts of the case are that the assessee, an Individual declared total income of Rs 5,91,920/- as per ROI. The case was selected for scrutiny. However, on account of repeated non-compliance by the assessee to the notices issued by the AO, assessment order passed u/s 144 of the Act adding Rs 80,38,000/- as income from Long Term Capital gain with regard to sale of certain property. Aggrieved by the assessment and the additions this appeal was preferred before the CIT(A). During the course of the appellate proceedings, the assessee was requested to file such reply, evidences / submissions in support of the grounds of appeal which was not done. However, even before him there was no proper compliance. Accordingly, it was concluded by him that the assessee had nothing more to submit and consequently action of the AO was upheld confirming the addition.



4. Before us, during hearing none attended for the assessee nor any adjournment application was filed. The ld.DR relied on the orders of the authorities below and pleaded for confirmation of the impugned orders.

5. We find that the appellate order has been passed in a non-speaking manner as neither the issue involved have been duly considered nor the grounds of appeal have been adjudicated clearly. No independent application of mind is discernible from the appellate order as the ld.CIT(A) has completely failed to evaluate the points of consideration so as to give his own decision on objective analysis of all relevant facts and circumstances of the case in utter disregard to the principles of natural justice and fair play contrary to the mandate of section 250(6) of the Act. However, it is equally true that the assessee has been guilty of repeated non-compliance before both the authorities and even before us.

6. During the course of hearing, we proposed to send the appeal back to the file of the ld.AO in the light of above discussion so that the assessee may be provided a final opportunity of being heard and granting fresh opportunity to the assessee to advance his arguments/submissions before the AO so as to provide details in



connection with the merits of the case. The ld.DR wanted to the dismissal of the appeal considering the attitude of the assessee. However, in the substantial interest of justice, we set aside the appellate order and restore the entire matter back to the AO for passing the appellate order *de novo* after allowing adequate opportunity of hearing to the assessee.

7. Considering the non-compliant behaviour of the assessee during the proceedings, we deem it to proper to impose a cost of Rs 5,000/- on him with a direction to deposit the same in Prime Minister's Relief Fund within 15 days of this order and produce the acknowledgement thereof to the AO.

8. In the result, the appeal is **allowed for statistical purposes.**

Order pronounced in the open court on 13/10/2025.

Sd/-

SANDEEP GOSAIN

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 13.10.2025

Lubhna Shaikh / Steno



आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

