

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "E" MUMBAI

BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI SANDEEP SINGH KARHAIL (JUDICIAL MEMBER)

ITA No. 1625/MUM/2023
Assessment Year: 2014-15

M/s Edifice Properties Pvt. Ltd.,
208, Parvati Industrial Estate,
Sunwill Compound, Lower Parel
(W), Mumbai-400013.

PAN No. AABCE 5900 B
Appellant

DCIT, Central Circle 2(4),
Mumbai.

Vs.

Respondent

Assessee by : Mr. Hiro Rai
Revenue by : Mr. Biswanath Das, CIT-DR

Date of Hearing : 30/08/2023
Date of pronouncement : 30/08/2023

ORDER

PER OM PRAKASH KANT, AM

This appeal has been preferred by the assessee against order dated 16.03.2023 passed by the Ld. Commissioner of Income-tax (Appeals) – 48, Mumbai [in short ‘the Ld. CIT(A)’] for assessment year 2014-15, raising following grounds:

- 1) *The order passed by learned CIT(A) ex-parte is unjustified, unwarranted and bad in law.*
- 2) *The order passed by CIT(A) is without providing reasonable opportunity of being heard and is therefore illegal, invalid and bad in law.*
- 3) *The assessee was prevented on account of reasonable cause in making detailed submission before Hon'ble CIT(A) and thus dismissal of appeal to be set aside for providing reasonable*



opportunity of being heard and to decide appeal after considering the submission of assessee.

- 4) *The addition made by A.O. and upheld by CIT(A) at Rs. 12.97 crores is illegal, invalid and bad in law.*
- 5) *The evidence on record indicates that sale proceeds of property have been subjected tax in the case of assessee in Asst. Year 2015-16 and confirmation of addition in Asst. Year 2014-15 is double addition of the receipts considered and assessed in Asstt. Year 2015-16.*
- 6) *The learned A.O. and CIT(A) ought to have accepted the loss as shown in the return of income at Rs.8,54,871/-.*
- 7) *The learned A.O. and CIT(A) erred in holding that there is transfer of property during the Asst. Year 2014-15 in order to levy tax on capital gain at Rs. 12.97 crores.*
- 8) *The assessee denies liability to pay interest under section 234A, 234B and 234C of I.T. Act 1961. Without prejudice, levy of interest under section 234A, 234B and 234C of I.T. Act 1961 is unjustified, unwarranted and excessive.*

2. At the outset, the Ld. Counsel of the assessee submitted that the Ld. CIT(A) has passed the order ex-parte qua the assessee without taking into consideration the submission of the assessee. The Ld. Counsel referred to para 5.1 of the Ld. CIT(A) and submitted that all the notices except notice dated 06.02.2023 were issued in the Covid period and therefore could not be complied. He further submitted that on 06.02.2023, the assessee applied for adjournment which was rejected by the Ld. CIT(A). Therefore, he submitted that there being a reasonable cause for not complying before the Ld. CIT(A) , the order of ld CIT(A) might be set aside and issues in dispute may restored back to the file of Ld. CIT(A) for deciding afresh after taking into consideration submission of the assessee.

3. The Ld. Departmental Representative (DR) on the other hand, objected and submitted that the first three dates of the notices i.e.



20.02.2019; 03.12.2019; and 20.02.2020 were before the Covid period and for those dates, no reasonable cause has been demonstrated by the assessee for non-compliance of the notices.

4. We have heard rival submission of the parties on the issue in dispute and perused the relevant material on record. It is undisputed that the Ld. CIT(A) has decided the issue in dispute without taking into consideration submission of the assessee. On perusal of the order of the Ld. CIT(A), we find that on first three dates 20.02.2019; 03.12.2019; and 20.02.2020, no compliance has been made by the assessee. The contention of the Ld. Counsel that non-compliance was on account of Covid period is not found to be correct, because Covid restriction were imposed from 20th March,2020 only. As the assessee has not complied before the Ld. CIT(A) on all three dates without any reasonable and sufficient cause and due to noncompliant behavior of the assessee , energy and time of the Income-tax Authority has been wasted, which could have been used for justice delivery in other cases. In the circumstances, we feel it appropriate to impose a cost of Rs.5,000/- which the assessee shall pay into Prime Minister Relief Fund, within 30 days of receipt of this order. Subject to the payment of the cost by the assessee, the order of the Ld. CIT(A) is set aside and matter is restored back to him for deciding afresh after taking into consideration submission of the assessee. The assessee is also directed to co-operate and submit necessary document in support



of its claim before the Ld. CIT(A) at earliest. Since the ground No. 1 of the appeal of the assessee is allowed. We are not adjudicating upon the other grounds raised on merit.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 30/08/2023.

Sd/-
(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Mumbai;

Dated: 30/08/2023

Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai