



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAIPUR BENCH, RAIPUR**

**BEFORE S/SHRI N.S SAINI, ACCOUNTANT MEMBER  
AND PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No.221/Rpr/2014**  
Assessment Year : 2011-2012

DCIT,-1, 32/32, Bunglows, Bhilai.	Vs.	Smt. Sangeeta Chawla, Plot No.21/6, Nehru Nagar, Bhilai.
PAN/GIR No.		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

C.O. No.03/Rpr/2017  
(in ITA No.221/Rpr/2014)  
Assessment Year: 2011-12

Smt. Sangeeta Chawla, Plot No.21/6, Nehru Nagar, Bhilai..	Vs.	DCIT,-1, 32/32, Bunglows, Bhilai.
PAN/GIR No.		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri R.B.,Doshi, AR  
Revenue by : Shri ,Sanjay Kumar, DR

**Date of Hearing : 11/01/ 2018**  
**Date of Pronouncement : 15 /01/ 2018**

**ORDER**

**Per Pavan Kumar Gadale, JM**

This is an appeal filed by the revenue against the order of the CIT(A)-Raipur, dated 2.7.2014 for the assessment year 2011-12. The assessee has also filed cross objection.



2. The revenue has raised the following grounds of appeal:

“1. Whether in law and on facts and circumstances of the case, the CIT(A) has erred in deleting the addition u/s. 50C of STCG of Rs.80,34,750/- made by the AO by adopting sale consideration as value adopted by the stamp duty authorities.

2. Whether in law and on facts and circumstances of the case, the CIT(A) has erred in giving relief of Rs.80,34,750/- on account of bad debts which was neither claimed by the assessee nor added by the AO and thus giving double relief for the same amount.

3. Whether in law and on facts and circumstances of the case, the CIT(A) has erred in deleting the disallowance of Rs.32,04,800/- made by the AO on excess claim of deduction for cost of acquisition of the property.”

3. The Assessing Officer found that the assessee has inter-alia shown Rs.10,80,400/- on account of Short Term Capital Gain. The assessee also has shown sale of land for Rs.75,00,000/- and deducted Rs.64,19,600/- on account of cost of acquisition and difference of Rs.10,80,400/- was worked out as short term capital gain. On further verification, the Assessing Officer found that the assessee purchased a land admeasuring 875 sq.m. for Rs.55,00,000/- vide sale deed dated 02.01.2008. Rs,9,09,600/- was paid for fees and stamp duty. Therefore, cost of acquisition of the plot was Rs. 64,09,600/- as against Rs.64,19,600/- considered by the assessee as cost of acquisition. On perusal of the sale deed, it was found that the plot was purchased by the assessee jointly with Shri Tejender Singh Padda, S/o Late Shri Bhajan Singh Padda, New Khursipar, Bhilai (PAN : AMKPP2107R). Since



the plot was jointly purchased, cost of acquisition to the assessee should have been 50% of the total cost of acquisition i.e. Rs.,32,04,800/-. The land was sold vide sale deed dated 30.10.2010. On perusal of sale deed, it was found that the land was sold for Rs. 1,50,00,000/-. The land was sold jointly by Shri Tejender Singh Padda and the assessee to Shri Jai Prakash Goyal, S/o Late Rampal Goyal of 1733, Nehru Nagar (East), Bhilai (PAN : ADBPG2454C). Considering the sale proceed mentioned in the sale deed, the assessee found to have considered Rs.75,00,000/- as sale consideration out of total sale consideration of Rs. 1,50,00,000/-. Since 50% of the sale consideration was considered by the assessee for computing capital gain, the assessee cannot claim total cost of acquisition of the land. Therefore, apparently the assessee claimed excess deduction of Rs.32,04,800/- (50% of cost of acquisition of Rs.64,09,600/- + Rs.10,000/-found to be clerical mistake occurred while computing capital gain). In view of above, the Assessing Officer was of the opinion that the assessee found to have concealed income of Rs.32,04,800/- on account of short term capital gain. On careful perusal of the sale deed, the Assessing Officer found that the fair market value determined by Stamp Valuation Authority at Rs.3,10,69,500/-. The assessee was asked to explain why capital gain not be worked out considering the sale value as per provision of section 50C of the I.T.Act. In reply the assessee stated that the value adopted for stamp



duty purpose is exorbitantly high and is not representing fair market value of the property. The Assessing Officer observed that the fair market value of the land was determined at Rs.97,28,300/- as against the transaction made for the land of Rs.55,00,000/-. Considering the facts of the case, the Assessing officer considered the cost of land at Rs.1,55,34,750/- as per provisions of section 50C of the Act being 50% of total cost of acquisition of Rs.3,10,,69,500/-. Since the assessee has shown Rs.10,80,400/- as short term capital gain, the Assessing officer determined Rs.1,12,49,550/- as short term capital gain and added the same to the income of the assessee.

4. On appeal, the CIT(A) directed the Assessing Officer to re-compute the capital gain by adopting actual consideration i.e. Rs.75,00,000/- as full value of consideration received instead of Rs.1,55,34,750/- as taken by the Assessing officer.

5. Ld D.R. vehemently pleaded that the CIT(A) should not have deleted the capital gains of Rs.80,34,750/- as the value to be adopted for registration purposes is the stamp valuation. Whereas the CIT(A) without calling for details and also no report was filed by the assessee, suo moto dealt on the issue and deleted the addition. He submitted that the CIT(A) should have called for the comments of the Assessing Officer for deciding the issue and prayed for allowing the appeal of the revenue.



6. Contra, Id A.R. supported the facts with paper book and prayed for dismissal of the appeal of the revenue.

7. We have heard the rival submissions, perused the orders of lower authorities and materials available on record. Prima facie, the arguments of Id D.R. that the CIT(A) erred in deleting the addition without considering the fact that the sale consideration is undervalued and the Assessing officer was correct in applying the stamp duty valuation and further the assessee has not supported with any valuation report whereas Id A.R. emphasized that the assessee in the course of assessment proceedings has made a reference that the value adopted for stamp duty purpose is exorbitantly high and is not representing fair market value of the property. Since the assessee has not prayed for referring the matter to Departmental Valuation Officer or the Assessing Officer has not referred the matter to the DVO, we are of the opinion that both the parties have not dealt on the issue of valuation of the property in a proper manner. The contention of Id A.R. that the assessee has made a reference to refer the matter to the Valuation Officer but could not support with any documentary evidence and prayed that an opportunity be provided to substantiate her claim. Considering the material facts and information on record, we are of the opinion that the Revenue and the assessee have not referred the matter to the DVO. We, therefore, remand



the entire disputed issue to the file of the Assessing Officer, who will consider the submissions of the assessee and claims and pass an order on merits after providing an opportunity to the assessee.

8. Since Ground Nos.2 & 3 of the appeal are related to the Ground No.1 of appeal, these are also remitted to the file of the Assessing officer for fresh adjudication. The assessee is at liberty to make its submissions in respect of lease hold property as was pleaded before us before the Assessing officer.

9. The assessee has filed cross objection with delay of 865 days. The assessee has not made out a case of reasonable cause for delay in filing the cross objection. Therefore, we dismiss the cross objection as infructuous.

10. In the result, appeal filed by the revenue is allowed for statistical purposes and cross objection filed by the assessee is dismissed.

Order pronounced on 15 /01/2018.

Sd/-

**(N.S Saini)**  
**ACCOUNTANT MEMBER**

sd/-

**(Pavan Kumar Gadale)**  
**JUDICIALMEMBER**

Raipur; Dated 15 /01/2018  
B.K.Parida, SPS

**ITA No.221/Rpr/2014**  
Assessment Year : 2011-2012



**Copy of the Order forwarded to :**

1.	DCIT,-1, 32/32, Bunglows, Bhilai.
2.	The Respondent. Smt. Sangeeta Chawla, Plot No.21/6, Nehru Nagar, Bhilai.
3.	The CIT(A)- Bhilai
4.	Pr.CIT-Bhilai
5.	DR, ITAT, Raipur
6.	Guard file. //True Copy//

BY ORDER,

SR.PRIVATE SECRETARY  
**ITAT, Raipur**