

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES: BENCH "E" NEW DELHI**

**BEFORE SRI R.K.PANDA, ACCOUNTANT MEMBER  
AND  
SMT. BEENA A PILLAI, JUDICIAL MEMBER**

**ITA No.5311/Del/2014  
A.Y. 2008-09**

ITO, Ward 1  
Narnaul

vs. Smt.Savita Devi  
L/H of Sh.Vijay Kumar  
Narnaul, Near CIA  
Narnaul

**Cross Objection 146/Del/15  
(In ITA 5311/Del/14)  
A.Y. 2008-09**

Smt. Savita Devi  
Narnaul

vs. ITO, Ward 1  
Narnaul

**(Appellant)**

**(Respondent)**

**Revenue by:** Sh. S.R.Senapti, Sr.DR  
**Assessee by:** Sri Rajesh Goyal, Adv.

**Date of hearing:** 22.02.2018

**Date of Pronouncement:** 27.02.18

**ORDER**

**PER BEENA A PILLAI, JUDICIAL MEMBER**

The present appeal along with cross objection has been filed by the revenue and assessee against order dated 28/07/14 passed by Ld. CIT (A), Rohtak for the assessment year 2008-09 on the following grounds of appeal:

ITA NO 5311/Del/ 14

1. *On the facts and in the circumstances of the case, Ld.CIT(A) has erred in Law and facts in deleting the addition of Rs. 1,94,66,087/- - made by AO on account of capital gain on sale of land.*
2. *On the facts and in the circumstances of the case, Ld.CIT(A) has erred in not appreciating the material evidence collected during assessment proceedings which prove that contents of agreement dt. 28.1.2007 showing actual value of sale transaction of Rs.2.5 crore are true, independent of orders of stamp duty authorities. The application dt. 19.7.2007 by the assessee to the Tehsildar, Narnaul for measurement of land is having enough corroboration to prove the contents of agreement for sale dt. 28.1.2007 as true.*
3. *On the facts and in the circumstances of the case, Ld.CIT(A) has erred in not appreciating the fact that order of District Collector has been appealed against before Divisional Commissioner and the appeal is pending.*
4. *Appellant craves leave to amend, alter, vary and/or to add to all or any of the grounds of appeal on or before the date of hearing.”*

CO No. 146/Del/ 15

1. *That the order of the learned CIT CA) is perfectly according to the facts available on the records which have been wrongly interpreted by the appellant and arbitrarily challenged before the ITAT in appeals.*

2. That the learned CIT(A) has fully appreciated that there was no under statement of consideration in the sale made. The learned CITCA) has based her order on the basis of the final order passed after the order of the Divisional Commissioner whereby the Divisional Commissioner had allowed the appeal.

3. That ground No. 3 of the appeal is wholly misconceived and wrong in as much as it is wrongly stated in this ground that the order of the District Collector was in appeal, whereas no appeal is at all pending and that learned Collector had passed the final order on dated 03.07.2014, which is part of the appellate order of learned CIT CA) as annexeure 'A'.

4. That the entire order of the learned CITCA) is fully in accordance with the order of the revenue authorities, wherein it is finally held that there was no under statement of consideration at the time of sale of the land. The order of the learned CIT(A) may, therefore, kindly be confirmed and departmental appeal may be dismissed.

2. Brief facts of the case are as under:

Assesse filed his return of income on 31/03/09 declaring total income of Rs.1,31,280/-. The case was processed under section 143 (1) of the Income Tax Act, 1961 (the Act). Subsequently it was noticed that assessee has made agreement for sale of land administering 5 Bigha 1 Biswa at village Narnaul for Rs.2,50,00,000/-on 28/01/07. It was submitted that the said land was sold vide 2 agreements for Rs. 50 Lacs and 25 Lacs on 23/08/07. Accordingly, notice under section 148 was issued to

assessee. Assessing officer thereby as per provisions of section 50 C of the Act valued the property for 2.5 crores as against 75 lakhs shown by assessee. In the absence of any documentary evidence in support of the claim, assessee's submissions were rejected and an addition amounting to Rs.1,90,66,087/- was computed on account of capital gains.

2.1. Aggrieved by the addition made by Ld. AO, assessee preferred appeal before Ld. CIT (A).

2.1. During the 1<sup>st</sup> appellate proceedings an investigation was carried out by Additional Deputy Commissioner on the order of Deputy Commissioner. After investigation it was observed that no case about evasion of stamp duty was proved in the sale deed. An order dated 03/07/14 passed by the District Revenue Officer was placed before Ld. CIT (A) wherein it was observed that the sale deed was correctly registered in conformity with the collectors rate hence deficiency of any stamp duty was not found and as such the proceedings initiated were dropped after withdrawal of the notice issued by Sub Registrar.

2.2. Based on this order passed by the District Revenue Officer Ld. CIT (A) deleted the addition made by assessing officer.

2.3. Against the order of Ld. CIT (A) revenue is in appeal before us now.

2.4. Ld. DR supported the order of Ld. AO.

2.5. Ld.AR has submitted that the basis for valuing the property sold by assessee at Rs.1.25 crores the notice was issued by Sub-Registrar. He submitted that the District Revenue Officer later

dropped the charges and the proceedings of the notice issued by Sub Registrar and has also observed that there is no evidence to establish and prove that the land has been sold for Rs.1.25 crores.

2.6. He submitted that the entire basis of assuming the value of property at Rs.1.25 crores falls flat, and thus Ld. CIT (A) has rightly deleted the addition.

3. We have perused the submissions advanced by both the sides in the light of the records placed before us.

3.1. We have also perused the order passed by the District Revenue Officer dated 30/07/14 which is placed at page 30-37 and the translated version has been placed at page 38-55 of the paper book.

3.2. We do not find any infirmity in the order of Ld. CIT (A) as the Ld. DR has not been able to establish any falsity in the order of the District Revenue Officer by way of any cogent material on record.

3.3. Accordingly the grounds raised by revenue in its appeal stands dismissed.

4. In the result appeal filed by the revenue stands dismissed.

**5. CO No. 146/del/2015.**

5.1. It is observed that the Cross Objection raised by assessee supporting the order passed by the Ld. CIT (A) is in respect of the valuation of the property sold by assessee. As we have already

upheld the findings of Ld. CIT (A) on the issue, grounds raised in the cross objection stands allowed.

6. In the result appeal filed by the revenue stands dismissed and Cross Objection filed by assessee stands allowed.

Order pronounced in the open court on 27.02.2018.

Sd/-

**(R.K.PANDA)**  
**ACCOUNTANT MEMBER**

Sd/-

**(BEENA A PILLAI)**  
**JUDICIAL MEMBER**

Dt. 27<sup>th</sup> Feb., 2018

\*mv

Copy forwarded to: -

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

- TRUE COPY -

By Order,

**ASSISTANT REGISTRAR**  
ITAT Delhi Benches