

IN THE INCOME TAX APPELLATE TRIBUNAL 'D' BENCH, KOLKATA

Before Sri J. Sudhakar Reddy, Accountant Member & Sri S.S. Viswanethra Ravi, Judicial Member

I.T.A. No. 216/Kol/2018
Assessment Year: 2011-12

Radheshyam Agarwal.....Appellant
[PAN : ADDPA 1746 M]

ITO, Ward-32(4), Kolkata.....Respondent

Appearances by:

NONE

Shri S. Halder, Sr. DR, appearing on behalf of the Respondent.

Date of concluding the hearing : January 15th, 2019

Date of pronouncing the order : February 1st, 2019

O R D E R

Per J. Sudhakar Reddy :-

This is an appeal is filed by the assessee and is directed against the order of the Id. Commissioner of Income Tax (Appeals) - 9, Kolkata (hereinafter the 'Id. CIT (A)') dated 05/09/2017, wherein penalty levied u/s 271(1)(c) of the Act was confirmed.

2. None appeared on behalf of the assessee despite issuance of notice. Under the circumstances, we dispose off the appeal ex parte qua the assessee after hearing the Id. Departmental Representative.

3. Heard the Id. Departmental Representative. The assessee had sold property and derived income from capital gain. As there was a difference between market value of the property as per the valuation for stamp duty and the sale consideration, section 50C of the Act was attracted and consequently there was additional capital gain tax of Rs.1,01,191/- was levied. We find that the assessee has sold the property i.e. land situated in Village Gourangapur, P.S. Bhadreshwar on 06.04.2010 for Rs.9,00,000/-. The market value as per ADSR for the above property was Rs.17,81,815/-. The Assessing Officer at Para 3 Page 2 of his order

records that the required report from the valuation cell is not received and that, as the assessment is getting barred by limitation, the assessment is completed. The valuation as per ADSR as obtained by the Valuation Authority, Chandannagar, Hooghly was not referred to the valuation cell. Under these circumstances, we are of the considered opinion that no penalty can be levied u/s 271(1)(c) of the Act. The assessee has furnished a reasonable explanation. The Assessing Officer has not based the addition after obtaining valuation report from the valuation officer as required by law. In the result, the penalty levied u/s 271(1)(c) of the Act is cancelled.

4. In the result, the appeal of the assessee is allowed.

Kolkata, the 1st February, 2019.

Sd/-
[S.S. Viswanethra Ravi]
Judicial Member

Dated : 01.02.2019
(RS, Sr. PS)

Sd/-
[J. Sudhakar Reddy]
Accountant Member

Copy of the order forwarded to:

1. Radheshyam Agarwal, 58B, Shakespeare Sarani, Park Circus (Kalamandir), Kol-17.

2. ITO, Ward-32(4), Kolkata.

3. CIT(A)-

4. CIT- ,

5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches