

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
&  
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No.5400/Del/2016  
Assessment Year: 2009-10**

Shri Dharm Chand, C/o M/s Kissan Agro Properties Khema Khatti Road, Opp. Thakkar Hospital, Fatehabad. PAN: BAKPC5602C Appellant	vs	Income-tax Officer, Ward -1, Fatehabad.  Respondent
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Assessee by: Shri Salil Kapoor, Advocate  
Shri Shivansh Panoya, Advocate  
Department by: Ms Ashima Neb, Sr. DR

Date of Hearing: 13.08.2019  
Date of Pronouncement: 09.09.2019

**ORDER**

**PER NARASIMHA K. CHARY, JM**

Aggrieved by the order dated 08.08.2016 in Appeal No. 95/2014-15 passed by the Learned Commissioner of Income-tax(Appeals), Hissar {"CIT(A)"} for Assessment Years 2009-10, assessee preferred this appeal.

2. Brief facts of the case are that during the Financial year 2008-09, the assessee sold certain agricultural land to M/s Soma New Town for a consideration of Rs.79,08,778/- and Rs.44,62,062/- on account of two plots of land. In one plot he is the co-owner with three other brothers whereas in respect of the other besides the four brothers, two sisters were also there.

3. On receipt of AIR information, ld. AO made enquiries and resorted to the proceedings u/s 147 of the Income-tax Act, 1961 ('the Act') after recording reasons and by issuance of notice u/s 148 on 2.8.2013. Learned AO found that the assessee filed return of income showing nil income. He concluded the proceedings by order dated 24.11.2014 u/s 143(3)/147 of the Act by assessing the income of the assessee at Rs.1,21,97,890/-.

4. Aggrieved by the said addition, assessee preferred appeal before the CIT(A) and the ld. CIT(A) by order dated 8.8.2016 gave partial relief and the addition qua the disallowance of claim of agricultural income was deleted while confirming the addition qua the long term capital gains.

5. At the outset, it is the submission on behalf of the assessee that the assessee being an agriculturist not aware of income-tax procedures and nuances involved therein and therefore, could not produce the documentary evidence at an earlier stage but subsequently, on being advised they have gathered some evidence in the shape of certificate from Tehsildar to the effect that the lands are situated beyond 5 kms outside the municipal limits of Fatehabad; Letter of PWD B&R Branch, Fatehabad showing that the metalled road from municipal limits of Fatehabad towards the disputed land is 3.2 KM and the rest of the road is 'kacha road'; certificate from the Tehsildar to show that the balance road, which is a 'kacha road' is about 2 km proving thereby showing the total length of distance at 5.2 kms; Notification u/s 2(1A)(c), Proviso, Clause (ii)(b) and Section 2(14)(III)(B) of the Income-tax Act, area map and Google maps etc. and since these documents would go to the root of the matter and necessary to determine the tax liability, these documents may kindly be admitted for complete and effective adjudication of the matter.

6. It is further submitted that the two sisters of the assessee by the name Kaushalya Devi and Maya Devi also met with the same fate before the authorities below and they prefer ITA No.5393 and 5403/Del/2016 and they also being placed in identical situation produced additional evidence in support of their claim and the Tribunal by order dated 16.3.2018 accepted additional evidence and restored the matter to the file of the Id. AO with a direction to adjudicate the issue afresh in the light of additional evidence by following the directions given in the case of Virender Singh vs ITO, ITA No.3166/Del/2010 by order dated 27.6.2014. It is submitted that in view of the similarity of the facts, the same course would be followed in this matter also.

7. We have heard the learned DR on this aspect also. Both Kaushalya Devi and Maya Devi preferred appeals before this Tribunal and such appeals were disposed of by order dated 16.3.2018 holding that the evidence sought to be produced goes to the root of the matter. Further the Bench noticed the decisions in the case of Virender Singh and also ITO vs Praveen Kumar, ITA No.3839/Del/2012 order dated 21.10.2016 and considering the factual matrix, set aside the order and remanded the issue to the file of the Id. AO to adjudicate the issue afresh in the light of the decision in the case of Virender Singh (supra) after giving an opportunity of being heard to the assessee.

8. We are convinced with the facts and grounds in all these matters are identical so also the plea taken in respect of filing of the additional evidence. On a consideration of the nature of the evidence sought to be produced, we are satisfied that such evidence has a bearing on the extent of liability to tax of the assessee. We, therefore, find that the evidence sought to be produced is relevant and since all the endeavor of the authorities under the Income- tax Act

is to reach the just tax liability of the assessee, we are of the considered opinion that no prejudice would be caused to any of the parties by admitting all the additional evidence and setting aside the matter to the ld. AO to appreciate the contentions of the assessee in the light of such additional evidence.

9. We accordingly allow the additional evidence to be produced and while setting aside the impugned order, remand the matter to the file of the ld. AO for disposing it afresh after taking into consideration the additional evidence in the light of the directions given in the case of Virender Singh vs ITO.

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

**Order pronounced in the Open Court on 9<sup>th</sup> September, 2019.**

**Sd/-  
(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER**

**sd/-  
(K.NARASIMHA CHARY)  
JUDICIAL MEMBER**

Dated: **September, 2019**  
VJ

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

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Date of dispatch of Order.	