

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD**

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER

ITA No.	A.Y.	Appellant	Respondent
750/Hyd/19	2011-12	Prameela Churukanti SURYAPET [PAN: AHMPC1674M]	Income Tax Officer, Ward-1, SURYAPET
751/Hyd/19	2012-13		

For Assessee : Smt. S.Sandhya, AR
For Revenue : Smt. Esther N.Hangal, DR

Date of Hearing : 11-11-2019
Date of Pronouncement : 15-11-2019

ORDER

Both are assessee's appeals for the AYs.2011-12 & 2012-13, against the order of the Commissioner of Income Tax (Appeals)-12, Hyderabad, dt.15-02-2019 respectively.

2. Since the issue is common in both the assessment years, the Grounds raised by assessee for the AY.2011-12 are reproduced here under:

“1. The order of the learned Commissioner of Income-Tax (Appeals) is erroneous both on facts and in law.

2. The order of the learned Commissioner of Income-Tax (Appeals) ought to have provided opportunity before deciding the appeal ex parte.

3. The learned Commissioner of Income-Tax (Appeals) erred in holding that the entire amount of Rs.9,00,000/- being the sale value of the flat is taxable as a capital gain without considering that the flat No.30B was not subjected to exemption u/s.54F of the I.T.Act. The

learned Commissioner of Income-Tax (Appeals) failed to consider that flat No.30B fell to the share of Developer and not to the appellant.

4. The learned Commissioner of Income-Tax (Appeals) erred in confirming levy of interest u/s.234A and u/s.234B of the I.T.Act.

5. Any other ground that may be urged at the time of hearing”.

3. At the outset, it is noticed that the Ld.CIT(A) has confirmed the order of the Assessing Officer (AO), because none appeared for the assessee and no evidence in support of the Grounds raised by the assessee before the CIT(A) were filed by the assessee. Ld.Counsel for the assessee submitted that due to ill-health of the Counsel during the relevant period, none appeared before the CIT(A), due to which the assessment was disposed-of *ex-parte*. He submitted that the assessment order is also passed u/s.144 of the Act on erroneous understanding of the facts. He submitted that the properties which have been considered by the AO for bringing to tax the capital gain are not the properties of the assessee but they are the properties, which are fallen to the share of the developer. For the AY.2012-13 also the property, which has been considered for bringing to capital gain tax, had not been sold during the relevant assessment year, but was sold in the earlier assessment year. He submitted that the assessee's claim of exemption u/s.54F of the Act also needs to be considered by the AO.

4. Ld.DR was also heard.

5. Having regard to the fact that both the assessments as well as the first appeal was decided *ex-parte* the assessee and the facts considered by the AO are also not correct, I deem it fit and proper to set aside the orders of authorities below and remit the issue to the file of AO for *Denovo* assessment, after verifying the contentions of assessee. Needless to mention that the assessee shall be given a fair opportunity of hearing and assessee shall also co-operate with the AO, by providing the necessary details for completion of the assessment at the earliest.

5. In the result, appeals of assessee for both the assessment years are treated as allowed for statistical purposes.

Order pronounced in the open court on 15th November, 2019

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Hyderabad, Dated: 15-11-2019

TNMM

Copy to :

- 1. Prameela Churukanti, H.No.1-6-141/2/C2, Sree Vidya Nagar, Surya Pet.*
- 2. Income Tax Officer, Ward-(1), Suryapet.*
- 3. CIT(Appeals)-12, Hyderabad.*
- 4. Pr.CIT-3, Hyderabad.*
- 5. D.R. ITAT, Hyderabad.*
- 6. Guard File.*