

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH 'B(SMC)', HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA No. 1504Hyd/2018  
Assessment Year: 2008-09

C. Satyanarayana Reddy, vs. Income-tax Officer,  
Hyderabad. Ward – 13(1), Hyderabad

PAN – AEAPC 6720K

Appellant

Respondent

Assessee by: Shri K.A. Saiprasad  
Revenue by: Shri Nilanjan Dey

Date of hearing: 13/06/2019  
Date of pronouncement: 03/07/2019

**ORDER**

**PER S. RIFAUR RAHMAN, AM:**

This appeal filed by the assessee is directed against the order of CIT(A) – 4, Hyderabad, dated, 09/05/2018 for AY 2008-09.

2. Brief facts of the case are, the assessee is an individual retired from the State Government of Telangana and drawing pension. As per the information available with the department, during the FY 2007-08 relevant to the AY 2008-09, the assessee along with Sri B. Hanumanthu (both are GPA holders as per the agreement of sale vide document No. 21276/2006) sold immovable property vide sale deed document No. 14450/2007, dated 04/12/2007. The document value of the property is Rs.17,50,000/- whereas as the value adopted by sub-registrar Office(SRO) authorities is Rs.30,00,000/-. Hence, the AO observed that since the value of the property as per SRO authorities is more than the

document value, the value so adopted by the sub-registrar Office is deemed to be the full value of sale consideration received as per Section 50C(1) of the Income Act, 1961. In order to bring the escaped income of assessee's share to tax, the AO issued notice u/s 148 on 26.03.2015 and same was served on 27.03.2015. In response to the said notice, the assessee appeared on 27.07.2015 and filed copies of sale deeds. In response to notice under section 142(1) and Subsequent show cause letters issued providing opportunities on various dates i.e., on 10.08.2015, 27.10.2015, 02.11.2015, 19.11.2015, 30.11.2015, 22.12.2015, 08.01.2016, 28.01.2016, the assessee's authorized representative Sri V. Ramachandra Rao, FCA, appeared from time to time. The assessee's AR Sri.V.Ramachandra Rao vide letter dated 20.08.2015 confirmed the transaction and stated that the assessee has sold the property for lesser rate because of litigation on account of unauthorized possession by local gundas and requested to consider the same. Even after taking/availing several adjournments, the assessee/AR has not filed return of income and not produced the relevant bank details.

2.1 In view of the above, the AO issued a show cause letter dated 03.02.2016 with date of hearing on 15.02.2016, informing that it is proposed to complete the assessment under 144 r.w.s. 147 of the I.T. Act, 1961.

2.2 The assessee's AR appeared on 16.02.2016 and requested time upto 17.02.2016 to file the information called for. The assessee's AR appeared on 08.03.2016 and filed return of income for the A.Y.2008-09 declaring a total income of Rs.3,57,770/- which includes short term capital gains of Rs. 1,90,020/-, income from pension at Rs. 1,54,970/- and income from house property at Rs.12,600/-.

2.3 The AO observed that in computation of short term capital gains the assessee increased his share of sale consideration by Rs.2 lakhs i.e. at Rs.10,75,000/- against deemed value of sale consideration (as per SRO authorities value) to be admitted at Rs. 15,00,000/- as per provisions of section 50C. A notice under section 143(2) was issued on 08.03.2016 with date of hearing on 14.03.2016. The assessee's AR appeared and requested time upto 17.03.2016 to furnish Bank account statement. But no one appeared on the said date.

2.4 The AO observed that in view of the provisions of section 50C(1) of the Income tax Act, 1961, the assessee's explanation submitted vide letter dated 20.08.2015 is not acceptable. Hence the difference in the value so adopted by the Sub-Registrar Office authorities (Rs. 15,00,000/-) and the sale consideration adopted (Rs. 10,75,000/-) by the assessee in computation of tax i.e. at Rs. 4,25,000/- is added to the short term capital gains offered and assessment is completed accordingly.

3. Aggrieved by the order of AO, the assessee preferred an appeal before the CIT(A), the CIT(A) dismissed the appeal of the assessee in-limine on the ground that though several opportunities were offered to the assessee, there was no compliance from the assessee.

4. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising the following grounds:

*"1. The Learned First Appellate Authority is not justified in not giving proper opportunities to the appellant.*

*2. The Learned First Appellate Authority failed to appreciate the fact that in spite of the specific claim that the property in question is in litigation, the Assessing Officer is not justified in adopting SRO rate u/s 50C without referring the matter to the valuation cell.*

*3. The Learned First Appellate Authority failed to appreciate the fact that since, the Assessing Officer has not referred to the valuation cell, the addition made u/s 50C is unjustified.*

*4. The Learned First Appellate Authority is not justified in sustaining the addition of Rs. 4,25,000 made by the Assessing Officer.*

*5. The appellant craves leave to add or amend or alter any of the grounds at the time of hearing of appeal.”*

5. Considered the rival submissions and perused the material on record. On perusal of orders of revenue authorities, we find that assessee failed to represent his case before them. Therefore, the AO made the addition of Rs. 4,25,000/- as short term capital gain by treating the difference between the SRO value of Rs. 15,00,000/- and sale consideration adopted by the assessee at Rs. 10,75,000/-. We noticed that the property in question is in litigation. Therefore, SRO value cannot be applied without verification. Since assessee has not represented his case before tax authorities, we deem it fit to give one more opportunity to assessee. Accordingly, we remit this issue back to the file of AO with a direction to redo the assessment denovo after giving opportunity of being heard to the assessee. At the same time, we direct the assessee to represent the case before AO properly.

6. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Pronounced in the open court on 3<sup>rd</sup> July, 2019.

Sd/-  
(P. MADHAVI DEVI)  
JUDICIAL MEMBER

Sd/-  
(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER

Hyderabad, dated 3<sup>rd</sup> July, 2019.

*kv*

Copy forwarded to:

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2. *ITO, Ward – 13(1), AC Guards, Masab Tank, Hyd-04.*
3. *CIT(A) - 4, Hyderabad*
4. *Pr. CIT - 4, Hyderabad*
5. *The DR, ITAT, Hyderabad*
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