

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD
BENCH "B-SMC", HYDERABAD

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

	ITA No.2404/Hyd/2018		
	Assessment Year: 2007-08		
Mohammed Khasim, Hyderabad. PAN: AQDPM 0875 A	Vs.	Income Tax Officer, Ward-15(3), Hyderabad.	
(Appellant)		(Respondent)	
	Assessee by:	Sri Chaitanya Kumar, AR	
	Revenue by:	Sri Nilanjan Dey, DR	
	Date of hearing:	16/10/2019	
	Date of pronouncement:	20/11/2019	

ORDER

This appeal is filed by the assessee against the order of the Ld. CIT(A)-7, Hyderabad in appeal No.1049/CIT(A)-7/2014-15 dated 27/08/2018 passed U/s. 143(3) r.w.s 147 & U/s. 250(6) of the Act for the assessment year 2007-08.

2. The assessee has raised the following grounds in his appeal:-

- “1. The Ld. CIT(A) is erroneous, illegal and held contrary to the facts of the instant case.
2. The Ld. CIT(A) ought to have given direction to the A.O. with regard to deduction U/s. 54 of IT Act.
3. The Ld. CIT(A) / A.O. ought to have guided the appellant by explaining the provisions of section

50C and should have referred the matter to the Valuation Cell.

4. *The Ld. CIT(A) erred in determining the value at Rs. 31,04,000 (sic) whereas the appellant has disclosed an amount of Rs. 23,75,000/-.*
5. *Any other ground or grounds that may be urged at the time of hearing.”*

2. Brief facts of the case are that the assessee is an individual engaged in the business of trading in cotton beds. During the A.Y. 2007-08, Ld. A.O. observed that the assessee had sold a residential property situated at Musheerabad, Hyderabad and duly registered with SRO, Chikkadapally for value of Rs. 23,75,000/- against the market value of Rs. 44,75,000/- and has not filed the return of income. Subsequently, the A.O. reopened the assessment U/s. 147 of the Act and sought for the relevant details / evidence to substantiate the registered value of the property sold. In the absence of any cogent evidence and explanation, the A.O. invoked the provisions of section 50C of the Act and adopted the market value of the property at Rs. 44,75,000/- and computed the LTCG at Rs. 39,55,762/-. Aggrieved, assessee carried the matter in appeal before the Ld. CIT(A). On appeal, the Ld. CIT(A) called for a valuation report from the District Valuation Officer (DVO) through the Ld. A.O. The Ld. DVO vide his letter dated 18/5/2018 submitted his valuation report and valued the property at Rs. 31,04,000/-.

The Ld. CIT(A) took the same into consideration and directed the Ld. A.O. to recompute the LTCG by adopting the sale value of the property at Rs. 31,04,000/- instead of Rs. 44,70,000/- and partly allowed the appeal. Aggrieved by the order of the Ld. CIT(A), assessee is in appeal before the Tribunal.

3. At the outset, the Ld. AR submitted before us that the assessee was not given proper opportunity by the Ld. AO to represent his case. It was further submitted that assessee was not in a position to properly pursue the appeal before the Ld. CIT (A). Hence, it was pleaded that the matter may be remitted back to the file of the Ld. AO in order to provide one more opportunity as he has a fair case to succeed. The Ld. DR vehemently argued against the submissions of the Ld. AR and requested for confirming the order the orders of Ld. Revenue Authorities.

4. I have heard the rival submissions and carefully perused the material on record. On perusing the order of the Ld. AO and the Ld. CIT (A) it appears that neither the assessee nor his counsel had properly cooperated before the Ld Revenue Authorities. In this situation, we do not find much strength in the submission of the ld. AR. However, considering the prayer of the assessee and his bleak financial condition, in the interest of justice, I hereby remit the matter back to the file of the Ld.

AO for de novo consideration. At the same time, I also hereby caution the assessee to promptly co-operate before the Ld. Revenue Authorities in their proceedings failing which the Ld. Revenue Authorities shall be at liberty to pass appropriate order in accordance with law and merits based on the materials on the record. It is ordered accordingly.

5. In the result, the appeal of the assessee is allowed for statistical purposes as indicated hereinabove.

Pronounced in the open Court on 20th November, 2019.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 20th November, 2019

OKK

Copy to:-

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- 2) Income Tax Officer, Ward-15(3), Hyderabad.
- 3) The CIT(A)-7, Hyderabad
- 4) The Pr. CIT-7, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File