

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'G' BENCH,
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No. 5404/DEL/2016
[A.Ys 2009-10]

Shri Sohan Lal
S/o Shri Malik Ditta
C/o M/s Kissan Agro Properties
KHEMA KHATTI ROAD
Opp. Thakkar Hospital
Fatehabad

Vs.

The I.T.O
Ward - 2
Fatehabad

PAN No: ALPPL 3767 K

[Appellant]

[Respondent]

Date of Hearing : 19.02.2020
Date of Pronouncement : 20.02.2020

Assessee by : Shri Shivansh Pandya, Adv.
Revenue by : Shri H. K. Chaudhary, CIT-DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax (Appeals), Hissar dated 08.08.2016 pertaining to Assessment Year 2009-10.

2. The sum and substance of the grievance of the assessee is that the Id. CIT(A) erred in adopting the fair market value as on 01.04.1981 of the said land at Rs. 5,760/- and further erred in denying claim of exemption/deduction u/s 54B/54F of the Income tax Act, 1961 [hereinafter referred to as 'The Act' for short].

3. Briefly stated, the facts of the case are that the assessee jointly owned certain agricultural land with his three brothers and two sisters, namely, S/Shri Karam Chand, Dharam Chand, Prem Chand, Maya Devi and Kaushalya Devi measuring 106/kanals 18 marlas i.e.,13.26 Acres at Bhiva Basti, Fatehabad. The assessee's share in this land was as under :

- a) Assessee's share in this land was $1/4^{\text{th}}$ in the land measuring 57 Kanals 18 Marlas i.e. 7.13 acres at Bhiva Basti, Fatehabad, jointly owned by the assessee with S/Shri Karam Chand, Dharam Chand and Prem Chand.
- b) $1/6^{\text{th}}$ share in the land measuring 49 Kanals i.e. 6.13 acres at Bhiva Basti, Fatehabad, jointly owned by the assessee with the three brothers namely S/Shri Karam Chand, Dharam Chand & Prem Chand and two sisters namely Smt. Kaushalya Devi and Smt. Maya Devi

4. The Assessing Officer treated the aforesaid land as capital asset holding that the land is situated within the municipal limits.

5. At the very outset, the ld. counsel for the assessee stated that in the case of the co-owners, the quarrel travelled upto the Tribunal and the Tribunal, in the case of Kaushalya Devi in ITA No. 5399/DEL/2016 and Maya Devi in ITA No. 5403/DEL/2016 had the occasion to consider additional evidences and held as under:

"Since the additional evidences filed before me go to the root of the matter, therefore, after admitting the additional evidences so filed, I deem it appropriate to restore the issue to the file of the Assessing Officer with a direction to adjudicate the issue afresh in the light of the additional evidences filed and in the light of the decision of the Tribunal in case of Virendra Singh (supra). Needless to say, the Assessing Officer shall give due opportunity of being heard to the assessee and decide the issue as per fact and law. I hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes."

6. Similar view was taken in the case of Shri Karam Chand ITA No. 5401/DEL/2016.

7. Before us, also, the ld. counsel for the assessee filed similar additional evidences. Therefore, in the light of decisions of the co-ordinate bench, we restore this issue to the file of the Assessing Officer with similar directions as given in the cases of co-owners [supra].

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

The order is pronounced in the open court on 20.02.2020.

**Sd/-
[SUCHITRA KAMBLE]
JUDICIAL MEMBER**

**Sd/-
[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 20th February, 2020

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	19.02.2020
Date on which the typed draft is placed before the dictating Member	20.02.2020
Date on which the typed draft is placed before the Other Member	20.02.2020
Date on which the approved draft comes to the Sr.PS/PS	20.02.2020
Date on which the fair order is placed before the Dictating Member for pronouncement	20.02.2020
Date on which the fair order comes back to the Sr.PS/PS	20.02.2020
Date on which the final order is uploaded on the website of ITAT	20.02.2020
Date on which the file goes to the Bench Clerk	20.02.2020
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	