

IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES “ C ” BENCH: BANGALORE  
**BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER  
AND  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No.140/Bang/2019  
(Assessment Year: 2015-16)

Shri C.L. Subramanya Babu,  
128, 6<sup>th</sup> Cross, 1<sup>st</sup> A Block, BDA Layout,  
Bannerghatta Post Office, 8<sup>th</sup> Phase,  
JP Nagar, Bangalore-560 076  
PAN BALPS 7871R

....Appellant

Vs.

Income Tax Officer,  
Ward 7(2)(5), Bangalore.

.....Respondent.

|              |                           |
|--------------|---------------------------|
| Assessee By: | Shri C. Ramesh, C.A.      |
| Revenue By:  | Smt. R. Premi, JCIT (D.R) |

|                         |            |
|-------------------------|------------|
| Date of Hearing :       | 24.02.2020 |
| Date of Pronouncement : | 26.02.2020 |

**ORDER**

**PER SHRI PAVAN KUMAR GADALE, JM :**

The assessee has filed an appeal against the order of Commissioner of Income Tax (Appeals), Bangalore passed under Section 143(3) and 250 of the Income Tax Act, 1961 ('the Act').

2. At the time of hearing, the learned Authorized Representative has filed an application for admission of additional grounds that, the CIT (Appeals) has not adjudicated the grounds of appeal raised before Appellate Authority and prayed for admission of additional grounds of appeal. The learned Departmental Representative has no serious objection. Hence, the additional grounds of appeal are admitted and heard. The additional grounds of appeal raised by the assessee are as under:

1. The CIT (Appeals) was not correct in not adjudicating Ground filed before CIT (A), where the A.O. erred in not referring the matter of determination of Fair Market Value to the Valuation officer as mandated in section 50C(2) of the Act and proceeding to compute the Long Term Capital Gains adopting alleged guidance value as deemed consideration as the Appellant has objected for adopting guidance value during the course of assessment.

ALTERNATIVELY

2. The CIT (A) and A.O. have not appreciated the fact that even, if deemed consideration of Rs.1,51,00,00/- adopted for Calculation of Long Term Capital Gain, the Appellant is eligible to claim deduction u/s.54EC of Rs.50,00,000/- and U/s.54F of Rs.1,10,52000/- (which aggregates to Rs.1,60,52,000/-)

3. The CIT (Appeals) was not correct in not adjudicating Ground filed before CIT (A), where the A.O. erred in disallowing the expenditure on commission to the extent of Rs.1,60,000/-, without any basis.

4. The CIT (Appeals) was not correct in not adjudicating Ground filed before CIT (A), where the A.O. erred in disallowing expenditure of Rs.1,05,000/- being expenditure incurred on preparation of site, without any basis.

3. The Brief facts of the case are that the assessee has income from Capital Gains and filed Return of Income on 24.08.2015 disclosing total income of

Rs.2,93,850. Subsequently, the case was selected for scrutiny and Notice under Section 143(2) of the Act was issued. whereas the Assessing Officer after verifying the facts, has disallowed the claim under Section 54F of the Act, because the assessee has not deposited the unutilized sale proceeds in the Capital Gain Account scheme before filing of Return of income under Section 139(1) of the Act and made addition of Long Term Capital Gains of Rs.52,40,502/- and assessed the total income of Rs.55,34,350 and passed order under Section 143(3) of the Act dt.29.12.2017. Aggrieved by the order, the assessee has filed an appeal with the CIT (Appeals). Whereas the CIT (Appeals) concurred with the action of the Assessing Officer and dismissed the appeal. Aggrieved by the order of CIT(Appeals), the assessee has filed an appeal before the Tribunal.

4. At the time of hearing, the learned Authorized Representative has filed additional grounds of appeal for non-adjudication of grounds of appeal by the CIT (Appeals) and further the contention of the learned Authorized Representative that the Assessing Officer has not referred the matter to the Valuation Officer (DVO) and prayed for allowing the appeal. Contra, the learned Departmental Representative relied on the orders of CIT (Appeals).

5. We heard the rival contentions and perused the material on record. Prima facie, the learned Authorized Representatives submissions are that the CIT (Appeals) has not adjudicated the grounds of appeal in respect of provisions of

Section 50C of the Act and reference to the DVO for determining the value of the property in Grounds of appeal Nos.5 to 10. We find that, there are no observations or findings of the CIT(Appeals) on these grounds of appeal and are not adjudicated. Accordingly, we consider it proper to restore the entire disputed issues to the file of CIT (Appeals) for fresh adjudication and pass a speaking order. The assessee should be provided adequate opportunity of hearing and shall co-operate in submitting the information for early disposal of the appeal. Since we have restored the additional grounds of appeal to the file of the CIT(Appeals), the merits of the case are not discussed and allow the grounds of appeal of assessee for statistical purposes. .

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

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

**(A.K. GARODIA)**  
**ACCOUNTANT MEMBER**

Sd/-

**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

Dated: 26.02.2020.

\*Reddy GP

Copy to

1. The appellant
2. The Respondent
3. CIT (A)
4. Pr. CIT
5. DR, ITAT, Bangalore.
6. Guard File

By order

Assistant Registrar  
Income-tax Appellate Tribunal  
Bangalore