

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
BANGALORE BENCH 'B'**

**BEFORE SHRI N.V VASUDEVAN, VICE-PRESIDENT  
AND  
SHRI B.R.BASKARAN, ACCOUNTANT MEMBER**

ITA No.1903/Bang/2017  
(Assessment year : 2008-09)

Smt Vasanthi Hegde  
W/o late Govardhan Hegde,  
No.12, Basappa Road, Shantinagar,  
Bangalore-560 027  
PAN No.AAOPH5375D

Appellant

Vs

The Income Tax Officer,  
Ward-2(1),  
Bangalore

Respondent

Appellant by : Shri H. Guruswamy, ITP  
Revenue by : Shri Priyadharshi Misra, JCIT

Date of Hearing : 19-02-2020  
Date of Pronouncement : 28-02-2020

**ORDER**

**PER SHRI B.R.BASKARAN, AM:**

This appeal filed by the Assessee is directed against the order dated 23-06-2017 of CIT(A)-7, Bengaluru and it relates to assessment year 2008-09

2. At the time of hearing the learned AR submitted that the assessee is pressing only ground no.2 and accordingly submitted that other grounds are not pressed. The learned AR also made necessary endorsement in the grounds of appeal.

3. The ground no.2 reads as under:

*“ The learned AO has erred in holding that the capital gains are chargeable to tax for the AY: 2007-08 without appreciating the fact that the AY: 2007-08 was not a subject matter of appeal or assessment”.*

4. The Id. AR submitted that the assessee had entered into an agreement for selling a property which was an industrial vacant site located at 8<sup>th</sup> Main Road, Ward no.11, Bangalore. The agreement was entered on 16-06-2005. Thereafter, a General Power of Attorney was executed on 17-10-2006. Finally, the assessee sold the property on 03-03-2008 by executing a conveyance deed. The AO re-opened the assessment for assessment year 2008-09 by issuing notice u/s 148 of the IT Act, 1961 and assessed the long term capital gains in assessment year 2008-09.

4. The assessee challenged the assessment order by filing an appeal before the Id.CIT(A) who concurred with the contention of the assessee that the long term capital gains is not assessable in assessment year 2008-09. The Id.AR submitted that the Id.CIT(A) after having held so gave direction to the AO to assess the capital gains in assessment year 2007-08. The Id. AR submitted that the direction so given by the Id.CIT(A) is beyond his powers as he has to confine himself to file an appeal before him being assessment year 2008-09. Accordingly, the Id.AR prayed that the direction so given by Id.CIT(A) may be set aside.

5. We have heard Id. DR and perused the records.

6. The relevant observation made by CIT(A) relating to the contentions of the assessee read as under;

*“ 6. In view of the above I am of the considered view that the appellant is liable to be taxed in the AY: 2007-08 and therefore, the liability of capital gains imposed for AY:*

*2008-09 is directed to be deleted. The share of appellant in the property and the determination of guidance value for AY: 2008-09 is inconsequential for the instant year, thus the same is not adjudicated and are treated as dismissed for statistical purposes”.*

7. A perusal of the aforesaid observation of the Id.CIT(A) would show that the Id.CIT(A) has not given any direction as contended by the Id.AR. In our view, the Id.CIT(A) upon consideration of the facts has taken the view that the assessee is liable to be taxed in assessment year 2007-08 in respect of capital gains arising on transfer of the impugned land. The view so expressed, in our opinion, cannot be considered as direction given by Id.CIT(A). Hence, we do not find any merit in the contention of the Id.AR. Accordingly, we reject the appeal filed by the assessee.

8. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 28-02-2020.

**Sd/-  
(N.V VASUDEVAN)  
VICE-PRESIDENT**

**Sd/-  
(B.R.BASKARAN)  
ACCOUNTANT MEMBER**

Place: Bangalore  
Dated : 28-02-2020.  
\*am

Copy to :

1. The Assessee
2. The Revenue
3. The CIT concerned.
4. The CIT(A) concerned.
5. DR
6. GF

By order

Asst. Registrar