

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'I(2) + SMC 1' NEW DELHI**

**BEFORE MS SUCHITRA KAMBLE, JUDICIAL MEMBER,
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No. 7303/DEL/2018 (A.Y 2014-15)

Mohd Umar 272, Bani Sarai, Meerut Uttar Pradesh AVPU8975F (APPELLANT)	Vs	ITO Ward-1(4) Meerut, Uttar Pradesh (RESPONDENT)
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Appellant by	None
Respondent by	Sh. Pradeep Singh Gautam, Sr. DR

Date of Hearing	04.03.2020
Date of Pronouncement	13.03.2020

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 29/01/2018 passed by CIT(A)- Meerut for Assessment Year 2014-15.

2. The grounds of appeal are as under:-

“ 1. That Ld. CIT (Appeals) has erred in dismissing the grounds of Appellant in respect of Capital Asset U/s 2 (14) (b) (III) of the I.T Act 1961. In fact the land in question is not a capital asset.

2. That the Ld. CIT (Appeals) has erred in observing that the agricultural land in question is situated within the limits of Meerut Municipal Corporation.

3. That Ld. CIT (Appeals) has also erred in not considering the fact that the appellant did not authorize Mohd. Naved, C.A. for hearing in assessment

proceeding before the A.O. as has mentioned in the assessment order dated 26-12-2016. That is why, proper opportunity was not provided to the appellant by the A.O. to file the objection in respect of Fair Market Value assessed by Stamp Valuation Authority under the provisions of Section 50C (2) of the I.T Act 1961.”

3. The assessee is a trader and filed return of income regularly as per the submissions made as per the statement of facts submitted before the Tribunal. During the Financial Year 2013-14, the assessee sold agricultural land situated at Village Sakharpur, Tehsildar, District, Meerut which was situated 8 kilo meter away from Municipal Corporation of Meerut as mentioned in the facts. During the course of assessment proceedings statutory notices were not received by the assessee, therefore, the assessee was not able to appear before the Assessing Officer. The Assessing Officer passed an assessment order, thereby making addition of Rs. 14,83,750/- in respect of short term capital gain u/s 50C a/w Section 56 of the Income Tax Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. None appeared on behalf of the assessee and there is no adjournment application on behalf of the assessee. The notice has been served to the assessee. Therefore, we are taking of the submissions of the assessee before the CIT(A) as well as before the Assessing Officer.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard the Ld. DR and perused the material available on record. The CIT(A) has not given any categorical finding as to on what basis the determine of whether the land in question comes within the limits of the municipal corporation. In-fact, the same was not done by the Assessing Officer as well. Therefore, it will be appropriate to remand back this matter to the file

of the Assessing Officer for fresh adjudication. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice.

8. In result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the Open Court on 13th March, 2020.

**Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated: 13/03/2020
R. Naheed

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	05.03.2020
Date on which the typed draft is placed before the dictating Member	06.03.2020
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	13 .03.2020
Date on which the final order is uploaded on the website of ITAT	13 .03.2020
Date on which the file goes to the Bench Clerk	13 .03.2020
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	