

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

**BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No. 182/Bang/2018
Assessment year : 2009 – 10

Sri Shivaprasad Kowdi, Kowdi House, Near Hubli Toll Naka, Dharwad PAN : ALLPK4502B	Vs.	ITO Ward – 2 (1), Hubbali
APPELLANT		RESPONDENT

Assessee by	:	None
Revenue by	:	Shree Priyadarshi Mishra, JCIT DR
Date of hearing	:	29.09.2020
Date of Pronouncement	:	30.09.2020

ORDER

PER ARUN KUMAR GARODIA, A. M.:

This appeal is filed by the assessee and the same is directed against the order of learned CIT (A) – Hubli dated 28.02.2017.

2. This appeal was earlier fixed for hearing on 06.02.2020 and on this date, one Mr. Gangadhar J M, advocate and AR of the assessee appeared and made a written request for adjournment by a letter dated 06.02.2020 and on his request, the hearing was adjourned to 05.05.2020. On 05.05.2020, the

hearing was adjourned to 03.09.2020 and new date of hearing was displayed in notice board and ITAT website. On 03.09.2020, none appeared on behalf of the assessee and since, no notice was issued to the assessee for informing about this date of hearing, the tribunal adjourned the hearing to 29.09.2020 and notice was sent to the assessee by RPAD and it is duly served on the assessee as per A/D available on record. In spite of this, none appeared on this date and therefore, the appeal was heard ex parte qua the assessee. Learned DR of the revenue supported the order of CIT (A).

3. The assessee has raised as many as 5 grounds of appeal but the grievances are two only. First grievance is this that LTCG of Rs. 54,26,649/- brought to tax by the AO should be deleted. The second grievance is this that even if LTCG is brought to tax in the present year, deduction should be allowed u/s 54F as claimed by the assessee.

4. We have considered the submissions of the learned DR of the revenue and gone through the orders of the lower authorities. We find that in para 8 of his order, it is noted by CIT (A) that the assessee has received Rs. 47,83,943/- in terms of JDA and the property in question has been handed over to the developer in tune with the terms and conditions of JDA. Thereafter, in para 10 and 11 of his order, learned CIT (A) has followed the judgment of Hon'ble Karnataka High Court rendered in the case of CIT vs. Dr. T. K. Dayalu, 202

Taxman 531 and decided the first issue against the assessee. In the same para no. 11 of his order, learned CIT (A) has observed that for claim of deduction u/s 54F, the assessee has Dayle not proved with evidence that he has invested Rs. 20 Lacs in the flat and decided second issue also against the assessee. In view of these facts, we find no infirmity in the order of CIT (A) in respect of any of these two issues.

5. In the result, this appeal of the assessee is dismissed.

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

Sd/-

(BEENA PILLAI)

Judicial Member

Sd/-

(A.K. GARODIA)

Accountant Member

Bangalore,

Dated: 30th September, 2020.

/NS/*

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| 1. Appellants | 2. Respondent | 3. CIT |
| 4. CIT(A) | 5. DR, ITAT, Bangalore. | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.