

IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "A-SMC", HYDERABAD

BEFORE SHRI A. MOHAN ALANKAMONY,  
ACCOUNTANT MEMBER  
(Through Virtual Hearing)

ITA No.1535/Hyd/2017		
Assessment Year:2007-08		
K. Vijaya Sree, Hyderabad. PAN: DQSPK 1538 J	Vs.	Income Tax Officer (Intl. Taxation)-II, Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri S. Rama Rao	
Revenue by:	Shri Nilanjan Dey, DR	
Date of hearing:	05/10/2020	
Date of pronouncement:	05/10/2020	

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the assessee against the order of the Ld. CIT (A)-10, Hyderabad in appeal No. 0009/CIT (A)-10/2015-16, dated 30/05/2017 passed U/s. 143(3) r.w.s 147 and U/s. 250(6) of the Act for the AY: 2007-08.

2. The assessee has raised the following grounds in her appeal which are extracted herein below for reference:-

- 1. The order of the Ld. CIT (A) is erroneous both on facts and in law.*
- 2. The Ld. CIT (A) erred in not considering the submissions made before him and erred in deciding the appeal without properly appreciating the facts.*
- 3. The Ld. CIT (A) erred in holding that the capital gain on entering into the development agreement is taxable for the AY 2007-08 without*

*considering the fact that the Development Agreement was entered into in June 2004 relevant for the AY 2005-06.*

4. *The Ld. CIT (A) erred in confirming the determination of the indexed cost of acquisition of the property at Rs. 10,86,719/- as against Rs. 20,67,994/-.*
5. *The Ld. CIT (A) erred in confirming the determination of the capital gain at Rs. 23,51,281/- as against Rs. 13,70,006/- determined by the appellant.*
6. *The Ld. CIT (A) erred in confirming the rejection of the claim for deduction U/s. 54F of the Act.*
7. *Any other ground that may be urged at the time of hearing.”*

3. At the outset, the Ld. AR submitted before us that there was a delay in filing the appeal as the assessee was a non-resident. It was therefore pleaded that the delay in filing the appeal may be condoned. The Ld. DR though objected to the submission of the Ld. AR finally conceded to the request of the Ld. AR. Considering the fact that the assessee is a non-resident, in the interest of justice, I hereby condone the delay and proceed to hear the appeal on merits.

4. The Ld. AR thereafter submitted that the Ld. CIT (A) has passed ex-parte order without providing proper opportunity to the assessee of being heard. It was therefore pleaded that the matter may be remitted back to the file of the Ld. CIT (A) in order to provide one more opportunity to the assessee of being heard. Ld. DR, on the other hand, vehemently opposed to the submissions of the Ld. AR and argued that proper opportunities had been provided to the assessee however, on the given dates of hearing, neither the assessee nor her Representative appeared before the Ld. CIT (A). It was further submitted that in the

this circumstance the Ld. CIT (A) had no other option but to pass ex-parte order based on the materials available on record. Hence, it was pleaded that the order passed by the Ld. CIT(A) does not call for any interference.

5. I have heard the rival submissions and carefully perused the materials on record. On examining the facts of the case, I find merit in the submissions of the Ld. DR. The Ld. CIT (A) had posted the case on several occasions. However, none appeared on behalf of the assessee before the CIT(A) on the date of hearing. Therefore, the Ld. CIT (A) was left with no other option except to adjudicate the appeal ex-parte based on the material available on record. In this situation, I do not find much strength in the arguments advanced by the ld. AR. However, considering the prayer of the Ld. AR and the fact that the assessee is a non-resident, in the interest of justice, I hereby remit the matter back to the file of Ld. CIT (A) in order to consider the appeal afresh on merits by providing one more opportunity to the assessee of being heard. At the same breath, I also hereby caution the assessee and her Representative to promptly co-operate before the Ld. CIT (A) in the proceedings failing which the Ld. CIT (A) shall be at liberty to pass appropriate order in accordance with law and merits based on the materials on the record. It is ordered accordingly.

6. In the result, appeal filed by the assessee is allowed for statistical purposes as indicated hereinabove.

Pronounced in the open Court on 05<sup>th</sup> October, 2020.

Sd/-  
(A. MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Hyderabad, Dated: 05<sup>th</sup> October, 2020.

*OKK*

Copy to:-

- 1) K. Vijaya Sree C/o. V.V. Rajam, D.No. 16-11-20/65, Saleem Nagar, Colony, Malakpet, Hyderabad.
- 2) Income Tax Officer, (Intl. Taxation)-II, Income Tax Towers, AC Guards, Hyderabad.
- 3) The CIT (A)-10, Hyderabad.
- 4) The Chief Commissioner of Income Tax, (IT) (SZ), Bengaluru.  
(ii) The CIT (IT & TP), Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File