

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad
(Through Video Conferencing)
Before Smt. P. Madhavi Devi, Judicial Member
AND
Shri A. Mohan Alankamony, Accountant Member

Appeal in ITA No	Assessee	Respondent	A.Y
750/Hyd/2017	Shri Mirza Mustafa Baig Hyderabad PAN:ACIPM5312P	Dy.CIT, Central Circle-6 Now C.C.1(3) Hyderabad	2008-09
751/Hyd/2017	Smt.Ghasia Begum, Hyderabad PAN:AOBPB8420L	-do-	2008-09
752/Hyd/2017	Shri Mirza Nader Baig Hyderabad PAN:ARRPM1722B	-DO-	2008-09
753/Hyd/2017	Shri Mirza Yusuf Baig, Hyderabad PAN:ARRPM1989Q	-do-	2008-09

Assessee by:	Sri S, Rama Rao
Revenue by:	Ms. Kanika Agarwal,DR
Date of hearing:	02/11/2020
Date of pronouncement:	02/11/2020

ORDER

Per Bench.

These are the appeals of the respective assessees for the A.Y 2008-09 against the individual orders of the CIT (A)-12, Hyderabad, dated 13.01.2017.

2. Brief facts of the case are that the assessees collectively owned 5acres and 6guntas of land at Survey No.218 and 219 of Narsingi Village, Rajendra Nagar Mandal, Hyderabad. There was a search and seizure operation u/s 132 of the I.T. Act conducted in the residence of the assessees on 17.10.2007 and the sale transactions of the above land by the assessees to M/s. Sun Breaze Estate Developers Ltd, one of the companies of DLF

group companies were found. In response to the search and seizure operations, the assessee filed their returns of income which were considered and the assessments were completed u/s 143(3) of the Act rejecting the claim u/s 54B of the Act. Thereafter, the matter reached upto the ITAT and the Tribunal remitted the matter back to the file of the AO with a direction to verify whether the assessee had purchased the agricultural land within a period of two years and to re-decide the issue in accordance with the law after giving the assessee a reasonable opportunity of hearing. The AO, therefore, issued notices to the assessee and completed the assessments u/s 143(3) r.w.s. 254 of the I.T. Act on 7.5.2012. Against the said assessment orders, the assessee filed appeals before the CIT (A) which were dismissed by the CIT (A) for non-appearance of the assessee and the assessee is in second appeal before the Tribunal by raising the following grounds of appeal:

“1) The order of the learned Commissioner of Income-Tax (Appeals) is erroneous both on facts and in law.

2) The learned Commissioner of Income-Tax (Appeals) erred in deciding the appeal without providing opportunity to the appellant and without considering the written submissions filed before the learned Commissioner of Income-Tax (Appeals) by the appellant.

3) The learned Commissioner of Income-Tax (Appeals) erred in confirming the disallowance of the claim for deduction u/s 54B of the I.T. Act of Rs.96,62,500/- made by the Assessing Officer.

4) The learned Commissioner of Income-Tax (Appeals) ought to have considered the detailed written submissions filed before him and allowed the claim of the appellant.

5) Any other ground or grounds that may be urged at the time of Hearing”.

3. It is the case of the assessee that though the assessee have filed appeals along with the written submissions before the

CIT (A), the CIT (A) has dismissed the appeals for non-appearance and not on merits.

4. The learned Counsel for the assessee submitted that only two notices for hearing were given and due to non-appearance of the assessee on those days, the CIT (A) has dismissed the appeals. The learned Counsel for the assessee prayed for an opportunity to submit the details before the CIT (A) and hence prayed for a remand of the file to CIT (A).

5. The learned DR was also heard.

6. Having regard to the rival contentions and the material on record, we find that all the assessees together were the owners of the agricultural land in Narsingi Village, Rajendra Nagar Mandal, Hyderabad and have sold the said property to M/s. Sun Breaze Estate Developers Ltd. The AO observed that the said land was a capital asset and therefore, the capital gain was liable to be brought to tax. The AO observed that the assessee has claimed exemption of the capital gain u/s 54B of the Act, that the assessee could not prove that the agricultural lands were purchased within two years. Thus, he denied exemption u/s 54B of the Act. Aggrieved, the assessee preferred an appeal before the CIT (A) who confirmed the assessment order for non-appearance of the assessees. Having regard to the fact that only two notices for hearing were given and the CIT (A) has not disposed of the appeal on merits, we deem it fit and proper to remand the appeals to the file of the CIT (A) with a direction to reconsider the assessee's appeals in accordance with the law. Needless to mention that the assessee's should be given a fair opportunity of hearing.

7. In the result, assessee's appeals are treated as allowed for statistical purposes.

Order pronounced in the Open Court on 2nd November, 2020.

Sd/- (A. MOHAN ALANKAMONY) ACCOUNTANT MEMBER	Sd/- (P. MADHAVI DEVI) JUDICIAL MEMBER
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Hyderabad, dated 2nd November, 2020.

Vinodan/sps

Copy to:

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- 2 Dy.CIT, Central Circle-6 (now Central Circle 1(3), Aayakar Bhavan, Basheerbagh, Hyderabad
- 3 CIT (A)-12 Hyderabad
- 4 Pr. CIT – Central, Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order