

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES : BENCH "A" HYDERABAD**

(Through Video Conference)

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

**I.T.A. No. 1706/Hyd./2014
A.Y. : 2008-09**

Smt. M. Deepa Reddy
Hyderabad

Vs. Income Tax Officer
Ward 6(3)
Hyderabad.

[PAN: ADYPM1339H]

(Appellant)

(Respondent)

For Assessee: Sri A. Srinivas, Adv.

For Revenue: Sri Sunil Kumar Pandey, D.R.

Date of Hearing : 20/01/2021

Date of Pronouncement : 28 /01/2021

ORDER

PER BENCH

This assessee's appeal for A.Y. 2008-09 arises from Commissioner of Income Tax (Appeals)-IV [CIT(A) in short] Hyderabad's order dated 27.08.2014 in case no.134/W-6(3)/CIT(A)-IV/13-14 involving proceedings u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short 'the Act').

Heard both the parties. Case file perused.

2. We notice during the course of hearing that the assessee's sole substantive grievance canvassed in the instant appeal seeks to reverse both the lower authorities' action making short term capital gains addition of Rs.1,19,90,000/- regarding transfer of her capital asset in issue. Suffice to say; learned departmental representative fails to dispute that both the lower

authorities have invoked sec.50C of the Act thereby adopting SRO guidance value of capital asset of Rs.2,07,55,000/- as against that declared Rs.71,16,000/-; respectively without making necessary statutory reference u/s 50C(2) of the Act.

2.1. Mr.Pandey at this stage vehemently contended that no such plea of DVO's reference had come from assessee's side during the course of scrutiny. We find no substance in the instant argument. Case law Sunil Kumar Agarwal vs. CIT (2014) 372 ITR 83 (Cal) holds that it is mandatory for the Assessing Officer to make sec.50C's reference even if the tax payer has not objection(s) in assessment proceedings. We therefore restore this sole substantive grievance back to the file of Assessing Officer for his fresh adjudication. It is made clear that assessee shall be at liberty to raise any factual or legal pleadings as are available to her in consequential proceedings.

This assessee's appeal is allowed for statistical purposes in above terms.
Pronounced in Open Court on 28th January, 2021.

Sd/-

(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Sd/-

(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: the 28th January, 2021.

* gmv

Copy of the Order forwarded to:

1. Smt. M. Deepa Reddy, 8-2-269/S/39, Sagar Society, Road no.2, Banjara Hills, Hyderabad 500 034.
2. ITO, Ward 6(3), Hyderabad.
3. ACIT, Range 6, Hyderabad
4. CIT(A)-IV, Hyderabad.
5. Pr.CIT Hyderabad
6. DR, ITAT, Hyderabad.
7. Guard File.