

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A" : HYDERABAD
(THROUGH VIDEO CONFERENCE)**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

I.T.A. No. 1892/HYD/2018

Assessment Year: 2009-10

Krishnaveni Basupally, HYDERABAD [PAN: CPUPB6563G]	Vs	Asst.Commissioner of Income Tax, Circle-15(1), HYDERABAD
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(Appellant)

(Respondent)

For Assessee : NONE

For Revenue : Shri Sunil Kumar Pandey, DR

Date of Hearing : 20-04-2021

Date of Pronouncement : 26-04-2021

ORDER

PER S.S.GODARA, J.M. :

This assessee's appeal for AY.2009-10 arises from the CIT(A)-7, Hyderabad's order dated 25-04-2018 passed in case No.0472 / CIT(A)-7 / 2016-17 in proceedings u/s.144 r.w.s. 147 of the Income Tax Act, 1961 [in short, 'the Act'].

Case called twice. None appeared at assessee's behest. He is accordingly proceeded *ex-parte*.

2. The assessee's sole substantive grievance pleaded in the instant appeal challenge correctness of both the lower authorities' action invoking Section 50C of the Act thereby adding capital gains of Rs.8,96,000/- on account of transfer of

the alleged capital asset; in the course of assessment dt.29-12-2016 as upheld in the CIT(A)'s lower appellate order.

3. Learned departmental representative fails to rebut the clinching fact at the outset itself that neither of the lower authority made the statutory reference to the DVO u/s.50C(2) of the Act. He vehemently contended that no such request came from the taxpayer's side. We find no merit in the Revenue's instant stand. Case law Sunil Kumar Agarwal Vs. CIT (2014) [372 ITR 83] (Cal) holds that a Section 50C(2) reference to the DVO is mandatory in Sec.50C proceedings even if the assessee concerned does not raise any such prayer. We therefore deem it appropriate to restore the instant sole issue back to the Assessing Officer for his afresh adjudication as per law. The assessee shall be at liberty to raise all factual as well as legal pleas in the consequential proceedings.

4. This assessee's appeal is treated as allowed for statistical purposes in above terms.

Order pronounced in the open court on 26th April, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Hyderabad,
Dated: 26-04-2021

Copy to :

1. Krishnaveni Basupally, Shri T.Chaitanya Kumar, Advocate, Flat No. 102, Gowri Apartments, Urdu Hall Lane, Himayatnagar, Hyderabad.

2. The Asst. Commissioner of Income Tax, Circle-15(1), Hyderabad.

3. CIT(Appeals)-7, Hyderabad.

4. Pr. CIT-7, Hyderabad.

5. D.R. ITAT, Hyderabad.

6. Guard File.