

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

ITA No.720/Hyd/2020		
Assessment Year: 2015-16		
Baleshwar Rao Musthyala, 8-335, MLN Complex, Market Road, Mancherial – 504208. Telangana. PAN No.ABJPM6322R.	Vs.	The Income Tax Officer, Ward – 1(1), Mancherial.
(Appellant)		(Respondent)
Assessee by:	Sri B. Shaanthi Kumar, AR	
Revenue by:	Sri P. Suresh, DR	
Date of hearing:	13/09/2021	
Date of pronouncement:	15/09/2021	

ORDER

Per Smt. P. Madhavi Devi, J.M.

This is assessee’s appeal for the A.Y 2015-16 against the order of the CIT (A)-2, Hyderabad, dated 05.10.2019.

2. Brief facts of the case are that the assessee did not file his return of income for the A.Y. 2015-16. A survey operation u/s 133A of the Act was conducted on 13.06.2017 at the business premises of Maheswari Agencies, the property concern of the assessee, during the course of which, books of accounts, certain documents etc. were found and impounded and the assessee had also admitted Capital Gains from the sale of the property.

3. Since the Assessing Officer believed that income chargeable to tax escaped assessment, he reopened the assessment u/s 147 of the Act by issuing a notice u/s 148 of the Act dt.18.01.2018. In response to the same, the assessee filed his return of income on 06.03.2018 admitting income of Rs.14,92,230/-. While completing the assessment, the Assessing Officer observed that the assessee has sold immovable property bearing Nos.8-388 and 8-388/1, having constructed area of 1550 sq.ft in ground floor, 1550 sq.ft in 1st floor and 658 sq.ft together with land admeasuring 361 sq.yds for a total consideration of Rs.80 lacs. While computing the capital gains, the assessee was asked to furnish documentary evidence for cost of purchase and also cost of improvements carried out by him. The assessee expressed his inability to furnish the details of improvements. He furnished the copy the Sale Deed bearing No.1847 of 2014 dt.23.06.2014. The Assessing Officer thereafter proceeded to compute the capital gains by adopting SRO value of the property for construction of the house in the year 2003-04 at Rs.370 per sq.ft. Accordingly, he computed the capital gains at Rs.49,42,203/-. He made a further addition of Rs.2,40,355/- as income from business.

4. Aggrieved, the assessee preferred an appeal which was partly allowed by the CIT(A) and the assessee is in second appeal before the Tribunal by raising the following grounds of appeal :

“1. The Ld. CIT(Appeals)’s order in confirming the capital gain to the extent of Rs.36,11,539/- is unsustainable on facts and in law.

2. The Ld. CIT(Appeals) erred in confirming the AO’s adoption of SRO’s value i.e., Rs.13,96,750/- as cost of construction in 2003-04.

3. The Ld. CIT(Appeals) erred in not considering the cost of construction of Rs.19,50,000/- adopted by the appellant which is factually correct.

4. The Ld. CIT(Appeal) erred is not considering the fact that the SRO's value is only an estimate.

5. The Ld.CIT(Appeal) erred in not considering the fact that the appellant used superior material justifying the cost of construction.”

5. At the time of hearing, the learned counsel for the assessee submitted that the assessee is aggrieved by the order of CIT(A) in confirming the assessment order and in not referring the matter to the Departmental Valuation Officer (DVO) instead of adopting S.R.O value since the assessee had disputed the SRO valuation. He submitted that the assessee had constructed the house in the year 2003, whereas the assessment was completed in the year 2018 and therefore, the assessee could not submit the details of cost of construction of the new house after 15 years and therefore, he requested that the valuation of property as on 16.07.2003 may be referred to the DVO and thereafter, to compute the capital gains. The learned DR was also heard.

6. Having regard to the rival contentions and the material on record, we find that there is no dispute that the capital gains has arisen in this case. The only issue before us is the valuation to be adopted for demolition of old house and for the construction of new house as on 16.07.2003. Since nearly 18 years have elapsed, we agree with the learned counsel for the assessee that he may not possess necessary evidence for adopting the cost of construction or cost of improvements. Therefore, we deem it fit and proper to remand the issue to the file of Assessing Officer with a direction to call for a report from the DVO on the value of the property as on 16.07.2003 and after

giving assessee a fair opportunity of hearing, to recompute the capital gains in accordance with law.

7. In the result, assessee's appeal is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 15th September, 2021.

Sd/- (A. MOHAN ALANKAMONY) ACCOUNTANT MEMBER	Sd/- (P. MADHAVI DEVI) JUDICIAL MEMBER
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Hyderabad, dated 15th September, 2021.

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Copy to:

S.No	Addresses
1	Baleshwar Rao Musthyala, 8-335, MLN Complex, Market Road, Mancherial – 504208, Telangana
2	The Income Tax Officer, Ward – 1(1), Mancherial
3	CIT (A)-2, Hyderabad
4	Pr. CIT – 2, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order