

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC"
(Virtual Court Hearing), BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member

I.T.A. No.1278/Kol/2019
Assessment Year: 2012-13

Smt. Tandra Ghosh.....Appellant
12, Aprakash Mukherjee Lane,
Shibpur,
Howrah-711102.
[PAN: AMKPG1615K]

vs.

ITO, Ward-47(1), Kolkata.....Respondent

Appearances by:

Shri Prabir Sen, AR, appeared on behalf of the appellant.

Shri Jayanta Khanra, JCIT, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : October 26, 2021

Date of pronouncing the order : October 26, 2021

Hearing through Video Conferencing

ORDER

The present appeal has been preferred by the assessee against the order dated 27.03.2019 of the Commissioner of Income Tax (Appeals)-14, Kolkata (hereinafter referred to as 'CIT') passed u/s 147/143(3) of the Income Tax Act (hereinafter referred to as the 'Act'). The assessee in this appeal has taken following grounds of appeal:

"1. That on the fact and in the circumstances of the case, the addition of Rs.6,24,214 on account of Long Term Capital Gains, being illegal as it was based on a biased valuation made by the Department, should be deleted in full and fair market valuation may be ordered from the point of view of equity and natural justice.

2. The appellant craves leave to adduce any further ground(s) or amend the grounds taken, at the time of hearing of this appeal."

2. At the outset, the Id. Counsel for the assessee has invited my attention to the impugned assessment order to submit that the sole dispute involved in this appeal is regarding the valuation of property sold by the assessee upon which the long-term capital gains have been assessed by the Assessing Officer. The Id. Counsel has submitted that the matter was referred by the Assessing Officer to the Valuation Officer for estimating

the valuation of the property. However, the Valuation Officer did not provide a copy of the valuation report and other relevant materials in this respect on the basis of which he had prepared the valuation report. That the matter was not only taken up with the Valuation Officer to request him to provide the copy of the valuation report, but this fact was also brought to the knowledge of the Assessing Officer which is also found mentioned at page no.2 of the impugned assessment order. However, the Assessing Officer without giving reasonable opportunity to the assessee to file objections and his submissions against the valuation report of the departmental valuer, proceeded to frame assessment order in violation of principles of natural justice. The Id. Counsel has submitted that the assessee may be given a copy of the valuation report and further opportunity to file objections against the same as well as other evidences in support of her claim and thereafter the matter be decided in accordance with law. The Id. DR has also fairly agreed that the assessee should have been given an opportunity to rebut the report of the Valuation Officer.

3. In view of above, the impugned order of the Id. CIT(A) is set aside and the matter is restored to the file of the Assessing Officer with a direction to supply to the assessee the copy of the valuation report along with other relevant documents and thereafter give a reasonable opportunity to the assessee to file objections and other submissions against the said valuation report and then to decide the matter in accordance with law by way of a speaking order.

4. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Kolkata, the 26th October, 2021.

Sd/-
[Sanjay Garg]
Judicial Member

Dated: 26.10.2021.

RS

Copy of the order forwarded to:

1. Smt. Tandra Ghosh
2. ITO, Ward-47(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Sr.PS/D.D.O, Kolkata Benches