

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI "SMC" BENCH: NEW DELHI**

**(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.5544/Del/2017  
[Assessment Year : 2007-08]**

Ramesh Mehra, 167, 1 <sup>st</sup> Floor, Katra Nawab, Chandni Chowk, Delhi PAN-AAAPM6466G	vs	ITO, Ward-47(4), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	None	
<b>Respondent by</b>	Sh. Om Parkash, Sr.DR	
<b>Date of Hearing</b>	27.12.2021	
<b>Date of Pronouncement</b>	18.01.2022	

**ORDER**

**PER KUL BHARAT, JM :**

This appeal filed by the assessee for the assessment year 2007-08 is directed against the order of Ld. CIT(A)-16, New Delhi dated 21.06.2017. The assessee has raised following grounds of appeal:-

- 1) *"That the assumption of jurisdiction u/s 147/148 of the Act is arbitrary, unjust and bad in law.*
- 2) *That there is no valid material to form reason to believe as contemplated u/s 147/148 of the Act and consequently the assumption of jurisdiction u/s 147/148 of I.T. Act as well as the re-assessment so framed in furtherance of such invalid jurisdiction is bad in law.*
- 3) *That the alleged "reason to believe" have been framed by AO without application of mind and in the absence of valid material consequently the assumption of jurisdiction u/s 147/148 of the I.T. Act as well as the re-assessment made in furtherance thereof is arbitrary, unjust, and at any rate very excessive.*

4) *That The AVO ought not to have worked out the market value of the land/plot on the basis of circle rate and rather it should have been worked out on the basis of independent evidence and consequently the value of the land/plot worked out by the AVO at Rs 43,03,000/- which includes the salvage of boundary wall at Rs. 28,000/- is arbitrary, unjust, not based on material deserve to be ignored.*

5) *That the CIT(A) had erred facts under the law relying upon the sale deed of higher price instead of lower price as pointed out by assessee and consequently the addition of Rs. 27,25,000/- sustained by CIT(A) is arbitrary, unjust, devoid of any merit, and at any rate very excessive.*

*Your appellant craves leave to add, alter, amend or of the grounds of appeal at the time of hearing.”*

2. None appeared on behalf of the assessee at the time hearing before us. It is seen from the record that the assessee has not been appearing since filing of the appeal. Various opportunities were given to the assessee. The notice sent through speed post was returned by the Postal authority with remark “left”. Three notices sent to the assessee are on records which have been returned by the Postal authority with same remark. The assessee has not furnished any new address to the Registry. Therefore, the appeal was taken up for hearing in the absence of the assessee and being disposed off on the basis of material available on record.

3. Facts in brief in this case are that the assessment was re-opened on the basis of information received regarding sale of property that sale price was Rs.22,00,000/- however, it was intimated to Assessing Officer that the sale price as per Registrar/Sub-Registrar was Rs.29,02,000/-. Therefore, there was a difference of Rs.7,02,000/- between the sale price adopted for stamp duty

and sale consideration. In response to the notice issued u/s 148 of the Income Tax Act, 1961 (“the Act”), Ld. Counsel for the assessee appeared and filed a details. However, the Assessing Officer did not accept the contention of the assessee and proceeded to adopted the sale consideration at Rs.47,25,000/- and made addition of Rs.27,25,000/-.

4. Aggrieved against this, the assessee preferred appeal before Ld. CIT(A) during the appellate proceedings. The issue was referred to Departmental Valuation Officer (“DVO”) and the DVO computed the fair market value of the property at Rs.43,03,000/-. However, Ld.CIT(A) on the basis of comparable sale under consideration adopted at sale consideration of Rs.38,95,000/-.

5. Aggrieved against this, the assessee is in appeal before the Tribunal.

6. Ground Nos. 1 to 3 in assessee’s appeal are in respect of the legality of the re-opening of the assessment.

7. Ld.Sr.DR submitted that the Assessing Officer has duly recorded reasons for re-opening of the assessment. He took me through the assessment order wherein the Assessing Officer has reproduced the reasons. Ld.Sr.DR submitted that there was reason to believe that income has escaped assessment within the meaning of section 147 of the Act. He submitted that the assessee has not disclosed any capital gain in the return of income.

8. I have heard the Ld. Sr. DR and perused the material available on record and gone through the orders of the authorities below. The assessee has not placed any material on record, suggesting that he duly disclosed the capital gain arising out of the sale transaction of the property admeasuring 250 sq.

mtrs. at D-213, G-8, Sector-39, Noida and registered sale price was Rs.22 Lakhs. However, as per the stamp duty valuation, the value was adopted at Rs.29,02,000/-. Therefore, there is no merit in the grounds raised by the assessee hence, Ground Nos. 1 to 3 raised by the assessee are dismissed.

9. Ground Nos. 4 & 5 of the assessee's appeal are in respect of adopting fair market value of the property by Ld.CIT(A) at Rs.38,95,000/-.

10. Ld. Sr. DR supported the orders of the authorities below.

11. I have heard the Ld. Sr. DR and perused the material available on record and gone through the orders of the authorities below. The reasons for re-opening the assessment states as under:-

*“Information was received from ACIT, Circle-1, Noida that the above assessee has sold property consisting of 250 sq. Mtrs. of Plot at D-213, G-8, Sector-39, Noida and the registered sale price was Rs.22,00,000/-. The ACIT, Circle-1, Noida vide his letter no.167 dated 27.03.2014 has informed that the sale price as assessed by Registrar/sub-Registrar for stamp duty was Rs.29,02,000/- and therefore there is a difference of Rs.7,02,000/- between the sale price adopted for stamp duty and sale consideration. hence, the AO has reason to believe that the income of the assessee amounting to Rs.7,02,000/- has escaped assessment within the meaning of section 147 of the Income Tax Act and the escapement of income is purely on account of failure on the part of the assessee to disclose fully and truly all material facts by filing the return for the A.Y. 2007-08.”*

12. Further, the Assessing Officer in the assessment order has stated that as per the Sale Deed, the value of property estimated by Stamp Valuation Authority at Rs.47,25,000/- and computed long term capital gain at Rs.27,25,000/-. But Ld.CIT(A) adopted the value at Rs.38,95,000/-. I find

that there is a discrepancy in the value stated in the reasons and adopted while framing the assessment, Ld.CIT(A) has not addressed this issue. Therefore, looking to the totality of the facts, I set aside the impugned order and restore the issue of valuation of the property to the file of Ld.CIT(A) to decide the same after advertng to the issue regarding discrepancy in the reasons recorded by the Assessing Officer and finally value adopted by him u/s 50C of the Act since there is no whisper by the authorities below in this regard. Thus, Ground Nos. 4 & 5 raised by the assessee are partly allowed for statistical purposes.

13. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 18<sup>th</sup> January, 2022.

***Sd/-***

**(KUL BHARAT)  
JUDICIAL MEMBER**

*\*Amit Kumar\**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI