

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

(THROUGH VIDEO CONFERENCING)

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No.5966/Del/2019

[Assessment Year : 2016-17]

| | | |
|--|------------------------|--------------------------------------|
| Mamta Gupta, 686, Chowkbara Tooti, Sadar Bazaar, New Delhi-110006. PAN-AANPG8214H | vs | ACIT, Circle-68(1), New Delhi. |
| APPELLANT | | RESPONDENT |
| Appellant by | None | |
| Respondent by | Shri Om Prakash, Sr.DR | |
| Date of Hearing | 12.01.2022 | |
| Date of Pronouncement | 31.03.2022 | |

ORDER

PER KUL BHARAT, JM :

This appeal filed by the assessee for the assessment year 2016-17 is directed against the order of Ld. CIT(A)-20, New Delhi dated 18.06.2019. The assessee has raised following grounds of appeal:-

1. *“That the Ld. CIT(A) is erred under the law while confirming the impugned order passed by the Ld. A.O. without passing a speaking order.*
2. *That having regard to the facts and circumstances of the case, that the Ld. CIT(A) is erred under the law while confirming that the A.O. has rightly adopted sale*

consideration of property at Rs.2,03,66,867/-(1/3rd share of 6,11,00,600) being the value taken up by stamp valuation authority as against sale consideration of Rs. 1,42,00,000/- (1/3rd share of total sale consideration of Rs. 4,26,00,000) received by the appellant by applying provisions of section 50C of the Act.

3. *That the authorities below are erred under the law while accepting the DVO report prepared on the basis of circle rate and Govt./CBDT circulars ignoring comparable sales instances as furnished by the appellant.*
4. *That any other grounds of appeal may be added/deleted or amended at the time of hearing.”*

2. No one appeared on behalf of the assessee. It is seen from the records that for last many hearings, no one is attending the proceedings on behalf of the assessee. It is seen from the records that the notice of hearing sent by speed post with acknowledgement due has been returned unserved with remark *“that there is no such person at the given address”*. Therefore, the appeal is taken up for hearing in the absence of the assessee.

3. The only effective ground in this appeal is against the adopting the value of property as assessed by the stamp valuation authority.

FACTS OF THE CASE

4. Facts giving rise to the present appeal are that in this case, return of income was filed by the assessee for Assessment Year 2016-17 on 19.07.2016 declaring income of Rs.22,55,280/-. The case was selected for limited scrutiny under CASS. Notice u/s 143(2) of the Income tax Act, 1961 (“the Act”) was issued to the assessee and served upon the assessee to explain the sale transaction of property i.e. Industrial Unit, Udyog Vihar, Gurugram. As per stamp valuation, the share of the assessee came to Rs.2,03,66,867/- against Rs.1,42,00,000/- as disclosed by the assessee. During the course of assessment proceedings, the matter was referred to District Valuation Officer (“DVO”). As per DVO, fair market value of the property was Rs.9,82,03,600/- as declared against Rs.4,26,00,000/-. The Assessing Officer (“AO”) therefore, adopted the value assessed by the stamp valuation authority and made addition of Rs.22,55,280/- and reduced the long term loss by Rs.61,66,867/-.

5. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, dismissed the appeal of the assessee.

6. Now, the assessee is in appeal before this Tribunal.

7. Ld. Sr. DR, Shri Om Prakash vehemently supported the orders of the authorities below and submitted that the assessment order is well-reasoned and based upon the credible evidences.

8. I have heard the contention Ld. Sr. DR and material placed on record and gone through the orders of the authorities below. The only contention in the ground of appeal of the assessee is that the authorities below failed to take note of relevant market rate of property. It is contended that merely because stamp valuation of property is assessed higher that does not mean that the actual market value of the property would be the same. I find that Ld.CIT(A) has decided the issue by observing as under:-

6.1.1. "The Assessing Officer during scrutiny found that the appellant had sold 1/3rd share in a property for a consideration of Rs. 1,42,00,000/- (1/3rd share in total sale value of Rs. 4,26,00,000/-) but as per the stamp valuation authority the total value of the property was assessed at Rs. 6,11,00,600/- whereas 1/3rd share of the assessee comes to Rs. 2,03,66,867/-. The Assessing Officer issued show cause letter to the appellant mentioning why the difference amount of Rs. 61,66,867/- should not be taken as her increased sale value under the provisions of Sec. 50C of the Act. The assessee

in reply stated that she had sold the property at prevailing market rates and submitted a valuation report from a registered valuer to that effect. The assessee also requested the Assessing Officer to refer the matter to the Valuation Officer u/s 50C(2) of the Act. On the request of the assessee the Assessing Officer referred the property for valuation to the DVO U/S 55A of the Act. The DVO after considering all the details from the assessee submitted his final report computing the Fair Market Value of the property at Rs.9,82,03,600/-. The Assessing Officer reproduced extracts from the reports in his assessment order. Since the Fair Market Value determined by the DVO of Rs. 9,82,03,600/- was higher than the assessed value of the stamp duty authority at Rs. 6,11,00,600/-, the Assessing Officer by adopting provisions of Sec. 50C (3) of the Act treated the value of the property at Rs. 6,11,00,600/- and determined the share of the assessee in the sale consideration being 1/3rd at Rs. 2,03,66,867/-. The Assessing Officer then reduced the carry forward of long term capital loss by the amount of Rs. 61,66,867/-(Rs. 2,03,66,867/- - Rs.1,42,00,000/-).

6.1.2 The appellant during appeal hearing submitted that the Assessing Officer had not considered the Govt. approved valuer's report which was the Fair Market Value of the property though is lower than the value determined by the stamp duty authority. The appellant further stated that if the Assessing Officer was not satisfied he may refer the property for valuation of Fair Market Value to the ova as per provisions of Sec. 50C(2) of the Act. The appellant submitted that the valuation of the DVO was not fair and the same should not be accepted. The

appellant further stated that she had mentioned the sale value of two other similar properties in the vicinity which the Assessing Officer ignored.

6.1.3 The Assessing Officer found during scrutiny that the appellant had shown sale consideration of her property of a lower figure than that determined by the stamp duty authority. To the show cause of the Assessing Officer the appellant herself suggested that the case may be referred to DVO as per provisions of Sec. 50C(2) of the Act. The appellant even submitted that the valuation made by the DVO shall be binding on her. The valuation made by the DVO regarding the Fair Market Value of the property even was much higher than the value assessed by the authority for the purpose of stamp duty. This shows that the Fair Market Value of the property cannot be as low as that shown by the assessee. However the Assessing Officer has adopted the value assessed by the authority for stamp duty purpose and computed the capital gain of the assessee accordingly. I do not see any anomaly in the action of the Assessing Officer. The action of the Assessing Officer is therefore confirmed.”

9. I find that in support of the contention that fair market value of the property in question was lower than the value adopted by the stamp valuation authority, the assessee has not furnished any evidence in support of this contention. I therefore, do not see any infirmity in the order of authorities below, the same is hereby affirmed. The ground raised by the assessee is dismissed.

10. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 31st March, 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