

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "SMC-B", BANGALORE**

Before Shri Chandra Poojari, Accountant Member

ITA No.690/Bang/2021 : Asst.Year 2011-2012

Sri.Sampathkumar Munirathna 22 A Cross, 4 th Main N Block Rajajinagar Bangalore – 560 010. PAN : AKJPK1836H.	v.	The Commissioner of Income- tax, NFAC, New Delhi.
(Appellant)		(Respondent)

Appellant by : Sri.Yadavan K., CA
Respondent by : Sri.Ganesh R.Ghale, Standing Counsel

Date of Hearing : 17.08.2022	Date of Pronouncement : 17.08.2022
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ORDER

This appeal filed by the assessee is directed against the order of the CIT, NFAC dated 26.03.21 for the assessment year 2011-2012.

2. The assessee has raised grounds with regard to reopening of assessment u/s 147 of the I.T.Act as well as addition made by the Assessing Officer u/s 50C of the Act by considering sale consideration of Rs.11.5 lakh instead of actual sale consideration of Rs.7.5 lakh.

3. The brief facts of the case are that the assessee is an individual, filed his return of income for the assessment year 2011-2012 on 28.07.2011 declaring total income of Rs.3,37,220. An information was received that the assessee was allotted a residential site on 25.09.2010 by M/s.BSEML Employees Co-operative Society Limited for a consideration of

Rs.5,74,000, which was subsequently sold on 21.01.2011 to one Sri.Chetan Palakaha Murthy, for a sale consideration of Rs.7,50,000 (stamp duty valuation authority valuation was Rs.11,50,000). On perusal of the return of income filed, it was noticed that the assessee had not declared short term capital gains from sale of above site in his return of income filed on 28.07.2011. Therefore, notice u/s 148 of the Act was issued on 28.03.2018. In response to the notice issued u/s 148 of the Act, the assessee furnished a letter requesting to treat the return of income filed on 28.07.2011 as the return of income filed in response to notice issued u/s 148 of the Act dated 28.03.2018. Notice u/s 143(2) dated 24.09.2018 was issued and duly served on the assessee. After examination of the information furnished by the assessee, the A.O. considered sale value as per stamp duty valuation authority valuation at Rs.11,50,000 and after giving benefit of claim of cost of acquisition and registration charges and stamp duty, assessed short term capital gain at Rs.4,86,190. The CIT(A) confirmed the view taken by the A.O. Aggrieved, the assessee is in appeal before the Tribunal.

4. As regards the issue of reopening of assessment, the learned AR submitted that the notice issued u/s 148 of the Act was beyond the prescribed time limit as it was issued after four months from the end of the relevant assessment year. In this case, there was no assessment u/s 143(3) and only intimation u/s 143(1) of the Act was issued. Being so, the A.O. is at liberty to reopen the assessment within six

years from the end of the relevant assessment year, i.e., A.Y. 2011-2012. In the present case, the notice u/s 148 of the Act was issued on 28.03.2018, which is within the time limit. Accordingly, the issue of notice u/s 148 of the Act is justified.

5. The next issue is with regard to determination of sale consideration of Rs.11.5 lakh as per the Sub-Registrar's valuation u/s 50C of the Act, instead of actual consideration of Rs.7.5 lakh mentioned in the sale deed. At the time of hearing, both the parties agreed that the issue may be remitted to the files of the A.O. to call for DVO's report / Registrar's Valuation Report, so as to determine the actual value of the property as on the date of sale. Accordingly, the issue relating to valuation of the property is remitted to the files of the A.O. for fresh consideration. The assessee is at liberty to file Registrar's Valuation Report and the A.O. is not satisfied with the same, he is at liberty to determine the actual value of the property on the basis of DVO's report. Accordingly, this issue is remitted to the files of the A.O. for fresh consideration.

6. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on this 17th day of August, 2022.

Sd/-

(Chandra Poojari)
ACCOUNTANT MEMBER

Bangalore; Dated : 17th August, 2022.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-NFAC Delhi
4. The Pr.CIT, Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore