

**THE INCOME TAX APPELLATE TRIBUNAL  
DELHIBENCH 'H', NEW DELHI**

**Before Dr. B. R. R. Kumar, Accountant Member**

**Sh. Yogesh Kumar US, Judicial Member**

**ITA No. 9598/Del/2019 : Asstt. Year : 2016-17**

Yograj, 4856, Ram Bazar, Cloth Market, New Delhi-110006 (APPELLANT)	Vs	Income Tax Officer, Ward-47(1), New Delhi-110002 (RESPONDENT)
<b>PAN No. AEYPR3528L</b>		

**Assessee by : Sh. K. Sampath, Sr. Adv. &  
Sh. V. Rajkumar, Adv.**

**Revenue by : Sh. Vivek Vardhan, Sr. DR**

**Date of Hearing: 11.10.2022**

**Date of Pronouncement: 29.11.2022**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the assessee against the order of Id. CIT(A)-16, New Delhi dated 18.10.2019.

2. The assessee filed return of income on 31.03.2017 declaring income of Rs.13,60,810/-. The solitary ground taken up by the assessee pertains to addition made by the AO on account of Long Term Capital Gains by rejecting the valuation report and determining the cost of the property as on 01.04.2001.

3. The assessee has been in possession of the property "X" alongwith other co-owner having 50% of the interest without a definitive tile. The title got perfected through registration of the property in 1979 by paying of sum of Rs.1,00,000/-. Through a

deed dated 10.08.1979. The said property has been sold for a total value of Rs.3.7 Cr. and the share of the assessee being Rs.1.85 Cr. which has been duly reflected in the return of income. The assessee for computing indexed cost has submitted the valuation report prepared by a registered valuer and architect wherein the value of the property as on 01.04.2001 has been determined at Rs.27,02,500/-. Based on the above valuation, the indexed cost of the property for computation of Long Term Capital Gains determined at Rs.1,31,46,311/-. The Assessing Officer rejected the valuation report on the grounds that the property which was of Rs.1,00,000/- on 10.08.1979 cannot be of Rs.27,02,500/- as on 01.04.2001 and computed capital gains at Rs.1,74,19,000/- and allowed Rs.50,00,000/- invested in the house property as per the provisions of Section 54 of the Income Tax Act, 1961.

4. Aggrieved, the assessee filed appeal before the Id. CIT(A) who concurred with the observation of the Assessing Officer that the valuation made by the registered valuer as fabricated.

5. Before us, during the hearing, the Id. AR referred to the submission dated 16.06.2019 filed before the Id. CIT(A) and argued that a plot of land measuring 90 mts. in the same locality was advertised for the sale by the DDA with a reserve price of Rs.2,20,000/- per sq. mt. Hence, the land value determined by the assessee (registered valuer) @ Rs.10,750/- cannot be taken as excessive for computation of capital gains. It was argued that the Act does not require the opinion of the approved valuer should be supported with further evidence in the shape of circle rate or exemplar sale deed etc. On the other hand, the Id. DR argued the property purchase in 1979 for

Rs.1,00,000/- cannot have an FMV of Rs.27,02,500/- as valued by the approved valuer which tantamount to an increase of 27 times in value of the property.

6. Heard the arguments of both the parties and perused the material available on record.

7. Value of the property as on 01.10.1979 is Rs.1,00,000/-. Value of the property as on 01.04.1981 is Rs.27,02,500/- as per the valuation report submitted by the assessee. Value of the property as on 01.04.2001 is Rs.27,02,500/- as perceived by the Assessing Officer.

8. Thus, there is an error crept in the order of the Assessing Officer in treating the value for computation of capital gains. Further, Section 55A mandates that to ascertain the fair market value of a capital asset for computation of capital gains, the Assessing Officer may refer the valuation of the capital asset to a Valuation Officer in case where the value of the asset claimed by the assessee is in accordance with the estimate made by the registered valuer, if the Assessing Officer is of opinion that the value so claimed is at variance with its fair market value. In the instant case, the AO did not refer the matter to the valuation officer and has also rejected the valuation report submitted by the assessee without adducing any evidence or reasons as to why and how the report could not be treated as acceptable. Hence, the action of the Assessing Officer cannot be supported.

9. In the result, the appeal of the assessee is allowed.  
Order Pronounced in the Open Court on 29/11/2022.

Sd/-

**(Yogesh Kumar US)**  
**Judicial Member**

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Dated: 29/11/2022**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**