

**IN THE INCOME TAX APPELLATE TRIBUNAL
BENCH: COCHIN**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SMT. PADMAVATHY S., ACCOUNTANT MEMBER**

ITA No.65/Coch/2022
Assessment Year: 2016-17

Veeresh Kumar Ramachandran, House No.49/762, Dhanam, Arayacham Veedu, Kacheri, Kollam 691 013. PAN NO : ADYPK7225J	Vs.	The Assistant Commissioner of Income Tax, Circle – 1, Kollam.
APPELLANT		RESPONDENT

Appellant by	:	Shri R Sreenivasan, A.R.
Respondent by	:	Smt. J.M. Jumuna Devi, Sr. DR

Date of Hearing	:	11.01.2023
Date of Pronouncement	:	30.03.2023

O R D E R

PER BEENA PILLAI, JUDICIAL MEMBER:

The present appeal is filed by the assessee against order dated 28.5.2021 passed by NFAC Delhi for assessment year 2016-17 on following grounds of appeal:-

1. This appeal has been preferred against the order of Commissioner of income-tax(Appeals) who completed the appeal ex-parte assessing Long Term Capital Gain on immovable property in which appellant had a share.

2. Intact no notice was served on the appellant thro ITBA Module.

a. The Assessing Officer is not justified in ignoring the comparable case and value submitted by the appellant in total disregard.

- b. The Assessing Officer has not appreciated the area of the land sold by your appellant and that of the comparable case & value adopted by her for determining fair market value.*
- c. The enquiries stated to have been made by the Assessing Officer are all behind the back of appellant and cannot stand the test of Law.*
- d. When no guide line value has been published by Government of Kerala in 1981 the Officer was not fair in adopting a document value of a transaction of property which is located in a remote interior area and which is not comparable or similar to the location of the property sold and the area in which it is located.*
- e. For the above reasons and other reasons as may be adduced at the time of hearing. Your appellant prays that the additions made in the assessment may be considered for deletion.*
- f. The Assessing Officers finding that the comparable property submitted by the appellant is located in a Commercial area, whose front side has a main Road is devoid of merits since the front road has only a width of 8 meter (approx. 26 feet), whereas the property sold has, a road frontage (National Highway) having a width of 12 meter (approx. 40 ft).*
- g. The Officer has totally misconstrued the particulars of the property submitted as comparable by the appellant and has been guided by the Inspectors Report.*

3. We request reference to the order of Delhi High Court in the case of Bharat Aluminium Company Ltd. Vs. Union of India 86 Ors., WP(C) 14528/2021 and Reghunuth Thakur Vs. State of Bihar & Ors.(1989) 1 SSC 229 to state that the opportunity to provide hearing before making any decision is considered to be a basic requirement in court proceedings.

4. Your appellant prays that the order of Commissioner of Income-tax (Appeals) may be set aside and justice rendered.”

2. At the outset, the ld. A.R. submitted that no notice was received by the assessee from the first appellate authority. He submitted that based on submissions already available in the assessment records, the impugned order was passed dismissing the claim of assessee. It is requested by the Ld.AR that, the

appeal may be remanded back to the ld. CIT(A) for disposing of the issue on merits.

2.1 The Ld.DR though submitted that notice u/s 250 of the Act was issued as per the impugned order, however, could not give the details of the same.

In the interest of justice, we remand this appeal back to the Ld.CIT(A). The Ld.CIT(A) is directed to consider the issues raised based on the evidences/documents filed by the assessee on merits and pass a detailed order. Needless to say, that proper opportunity of being heard must be granted to assessee by way of a personal hearing. The assessee is also directed to file all necessary evidences in support of its contentions.

Accordingly, the grounds raised by the assessee stands allowed for statistical purposes.

In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 30th March, 2023

**Sd/-
(Padmavathy S.)
Accountant Member**

**Sd/-
(Beena Pillai)
Judicial Member**

Bangalore,
Dated 30th March, 2023.
VG/SPS

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Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(Judicial)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.