

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'F': NEW DELHI**

**BEFORE,  
SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.7590/Del/2017  
(ASSESSMENT YEAR-2009-10)**

Smt. Krishna Devi W/o Tek Ram Tyagi H.No.139, Village Makan Pur Indrapuram Ghaziabad-201 002 PAN-EWLPK 4349M	Vs.	ITO Ward-1(3) Ghaziabad
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Smt. Rano Jain, Advocate
Respondent by	Sh. Vivek Vardhan, Sr. DR

Date of Hearing	12/10/2023
Date of Pronouncement	09/11/2023

**ORDER**

**PER YOGESH KUMAR U.S., JM:**

This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-2, Noida ["Ld. CIT(A)", for short], dated 24/11/2017 for Assessment Year 2009-10. Grounds taken in this appeal are as under:

*"1. That the learned CIT(A) has erred in law and facts in confirming the action of A O while framing the assessment U/s 147/148 of I. Tax Act while the impugned reassessment order has been passed without issuing and serving the mandatory notice U/s 148 and thus assumption of jurisdiction U/s 147 by the Id. AO is bad in law.*

2. That the learned CIT(A) erred in law and on fact in confirming the action of Ld. AO that the agriculture land which is sold on 16.06.2008 by the assessee is not the capital assets U/s 2(14) of I. Tax Act hence capital gain from sale of land no. 1 & 2 of Rs.53,42,336.00 is exempted U/s 2(14) the I. Tax Act, 1961 while in the case of the co-owner of such land Smt. Sudha Tyagi accepted by ITO Ward 2(3) Gzb. and granted exemption in capital gain while final the case U/s 143(3) of the I. Tax Act.

3. The learned CIT(A) erred in law and on fact in rejecting the Nagar Nigam certificate that the agriculture land no. 1099, 1135, 1136, 1137, 1139, 435, 1222 & 1258 situated in sub division of paragna Jalalabad which does not comes within the limit of Ghaziabad Municipality or Nagar Nigam as the said land is beyond the distance of 8 to 9 KM from the local limits of municipality at the time of sale of land and total population was 7918 of the last census 2011 while the said certificate was accepted by AO in remand report and no adverse comments has been made. However Ld. AO reply on the Google map of 2017 which is wrong and irrelevant for case relating to F.Y. 2008-09.

4. That the learned CIT(A) not consider the CBDT circular no. 17/2015 dt. 06.10.2015 which says that for the period prior to 2014-15 the distance between the municipal limits and the agriculture land to be measured having regard to the shortest road distance which the learned CIT(A) measured the road distance on the basis of google maps of 207 which is not justified.

5. That the learned CIT(A) erred in law and on fact for not considered the Gram Pradhan Morti, Village certificate.

6. That in any case and in any view confirmation of ITO action by the learned CIT(A) treating exempted capital gain on sale of agriculture land as taxable is legally and factually incorrect and has been made by recording factually incorrect findings.

7. That in any case and any view of the matter the impugned assessment order as confirmed by CIT(A) in respect Capital gain exempt are not sustainable in the eyes of law and the order of authorities below is beyond jurisdiction and void-ab-initio

8. That the appellant craves the leave to Add, Modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”

2. The brief facts of the case are that, the AIR information has been received by the Revenue that the assessee had sold two immovable properties with the sale consideration of Rs.69,60,720/- and Rs.65,35,104/- and the circle value of the said property was Rs.71,92,000/- & Rs.67,55,498/-, respectively. To verify the financial transaction, verification letters have been issued to the assessee no compliance was made by the assessee. Subsequently, the case was reopened u/s 147 of the Income Tax Act, 1961 ('Act' for short). The Authorized Representative appeared on behalf of the assessee and submitted the required details before the AO. The Ld. AO passed the assessment order u/s 144 of the Act by making the addition of Rs.69,73,749/- u/s 50C of the Act in following manners:-

*“As per the show cause notice u/s 144 of I.T. Act, 1961 the assessee was specifically asked to explain as to why an addition of Rs.1,39,47,498/- might not be added in her income as unexplained investment. On perusal of sale deed of the property, it is noticed that the assessee has sold an immovable property worth Rs.1,34,95,824/- (6960720+6535104) and the circle value of the said property was Rs.1,39,47,498/- (7192000+6755498). During the year under consideration, the assessee has sold two properties jointly with another person and share of the assessee was 50% which comes to Rs.69,73,749/- as per section 50C of I.T. Act, 1961. But despite ample opportunities provided to it, the assessee has not filed any written submission/explanation regarding calculation of capital gain. The assessee has also not complied with the notices issued*

*during the course of verification and assessment proceedings. Thus, the attitude of the assessee is of non co-operative nature and deliberately avoiding the statutory proceedings. As the assessee has not furnished ITR for A.Y. 209-10 and the copy of sale deed of the properties and calculation of capital gain as per section 50C, therefore, I have no alternate but to complete the assessment ex-parte u/s 144 of I.T. Act, 1961 by making an of Rs.69,73,749/- to the income of the assessee as income from sale of property u/s 50C of I. T. Act., 1961. Since, the assessee has furnished inaccurate particulars of its income, penalty proceedings under section 271(1)(c) of the Act are being initiated separately.”*

3. Aggrieved by the assessment order, the assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A) dismissed the appeal filed by the assessee vide order dated 24/11/2017 and sustained the addition, further directed the AO to re-compute the capital gain of Rs.69,73,749/- by reducing the costs of acquisition of the said properties from the total sale consideration in the hands of the assessee.

4. Aggrieved by the order of the Ld. CIT(A) dated 24/11/2017, the assessee preferred the present appeal on the grounds mentioned above. The Ld. Counsel for the assessee vehemently submitted that the assessee had two agricultural properties which were held by her in equal co-ownership with Smt. Sudha Tyagi and in the case of co-owner, the Ld. AO while passing the order u/s 143(3) of the Act has accepted the contention that the land is

situated beyond the distance of 8 K.M. from the nearest municipality. Further submitted that the assessee produced the copy of the certificate from Ghaziabad Municipal Corporation dated 22/06/2008, but the Ld. CIT(A) has erroneously relied on the Google map which was showing the distance as on 03/10/2017 which is erroneous, therefore, submitted that the assessee's appeal deserves to be allowed.

5. Per contra, the Ld. DR relying on the order of the Ld. CIT(A) that the distance between the property sold by the Assessee and the outer limit of Ghaziabad Municipal Corporation are less than the 8 K.M. from the outer limits of the Municipality. Further, submitted that the CIT(A) called for Remand Report and the A.O. made extensive enquiry and submitted detailed report to prove the distance between the property sold by the Assessee is less than 8 K.M. supported by the Google map and other materials, therefore, therefore, submitted that the order of the Ld. CIT(A) requires no interference.

6. We have heard both the parties and perused the materials available on record. The assessee had sold two immovable properties for the total sale consideration of Rs. 67,47,912/- which were held by her in equal co-ownership with Smt. Sudha Tyagi. The Assessee's share in the circle value of the property was Rs.69,73,749/-. The Ld. AO passed ex-parte assessment order u/s 144 of the Act on 08/12/2016 by making addition of Rs.67,73,749/- u/s 50C of the Act. Aggrieved by the assessment order dated 08/12/2016, the Assessee preferred an Appeal before the CIT(A). During the appellate proceedings the assessee produced additional evidence under Rule-46 of the Act which was admitted by the Ld. CIT(A) and Remand Report has been submitted by the AO. The Remand Report and the Rejoinder of the A.O. are reads as under:-

*“2. In this case AIR information has been received that during F.Y. 2008-09, the assessee had sold two immovable properties worth Rs.69,60,720/- & Rs.65,35,104/- along with Smt. Sudha Tyagi and the circle value of the said properties were Rs.71,92,000/- & Rs.67,55,498, respectively. The share of the assessee was 50% of the properties, which comes to Rs.69,73,749/- (50% of Rs. 1,39,47,498). To verify the genuineness of the transaction, verification letters were issued to the assessee on the address available on records, but the*

assessee did not comply with the notices issued by this office. Subsequently, provisions of section 147 of the LT. Act, 1961 were invoked and after obtaining approval from the Appropriate Authorities, statutory notice u/s 148 of the IT. Act, 1961 dated 31.03.2016 was issued to the assessee on the given address through speed post.

3. During the assessment proceedings, ample opportunities were provided to the assessee as per order sheet entries, but the assessee denied for making compliance of the statutory notices issued by this office. Further, before passing assessment order, show cause notice u/s 144 of the Income Tax Act, 1961 was issued to the assessee on 05.09.2016 fixing the date for compliance on 14.09.2016. But neither the assessee appeared nor furnished any compliance in response to this show cause notice. The assessee has also not furnished ITR for A.Y. 2009-10 in compliance to notice u/s 148 of the Act. Thus, the assessment was completed u/s 147/144 of I.T.Act., 1961 on 08.12.2016 at an income of Rs.69,73,749/- by making addition of Rs.69,73,749/- (half share of Rs. 1,39,47,498/-) on account of income from sale of immovable property.

Hence, the additional evidences filed under rule 46A may kindly be rejected.

2. Aggrieved with the order of the A.O passed u/s 147/144 dated 08.12.2016, assessee has preferred an appeal before your honor. However, the assessee has filed copy of sale deeds of the property as well as copy of purchase deed of the said property during the appellate proceedings. On perusal of deeds, it is noticed that the assessee had purchased said property jointly with Smt. Sudha Tyagi W/o Shri Sagar Tyagi, Vill- Makanpur, Indirapuram, Ghaziabad. The said properties were purchased by the assessee on 15.06.2006 with the sale consideration of Rs.6,08,000/- & Rs.6,37,350/ respectively. Further, the said properties were sold by the assessee on 16.06.2008 with the sale consideration of

Rs.65,35,104/- & Rs.69,60,720/-, respectively. The assessee had purchased the said properties on 15.06.2006 and were sold on 16.06.2008 i.e. within three years. Therefore, the assessee was liable to pay short term capital gain. The assessee has sold both the properties to M/s I. M. A. Private Limited, 26A, Sector-31, Kaska Industrial Area, Greater Noida through Authorized Signatory Shri Pawan Kumar Sarswat. During the course of appellate proceedings the assessee has submitted that the land is not capital assets with the definition of section 2(14) of I. T.Act., 1961. Further, the assessee has enclosed copy of certificate issued by Nagar Nigam Ghaziabad dated 27.08.2008.

3. The submission furnished by the A.R were examined. The land is situated within the notified area of Municipal Corporation of Loni, Distt. Ghaziabad which falls in the definition of capital assets within the meaning of sec. 2(14)(iii)(a) of the IT. Act, 1961. Sec. 2(14)(iii)(a) of the IT. Act, 1961, which is reproduced as under:

"Capital assets" means property of any kind held by an assessee whether or not connected with his business for profession, but does not include:-

(i) Any stock in trade, consumable stores or raw materials held for the purposes of his business or profession.

(ii) Personal effects, that is to say, moveable property (including wearing apparel and furniture) held for personal use by the assessee or any member of his family dependent on him, but exclude:-

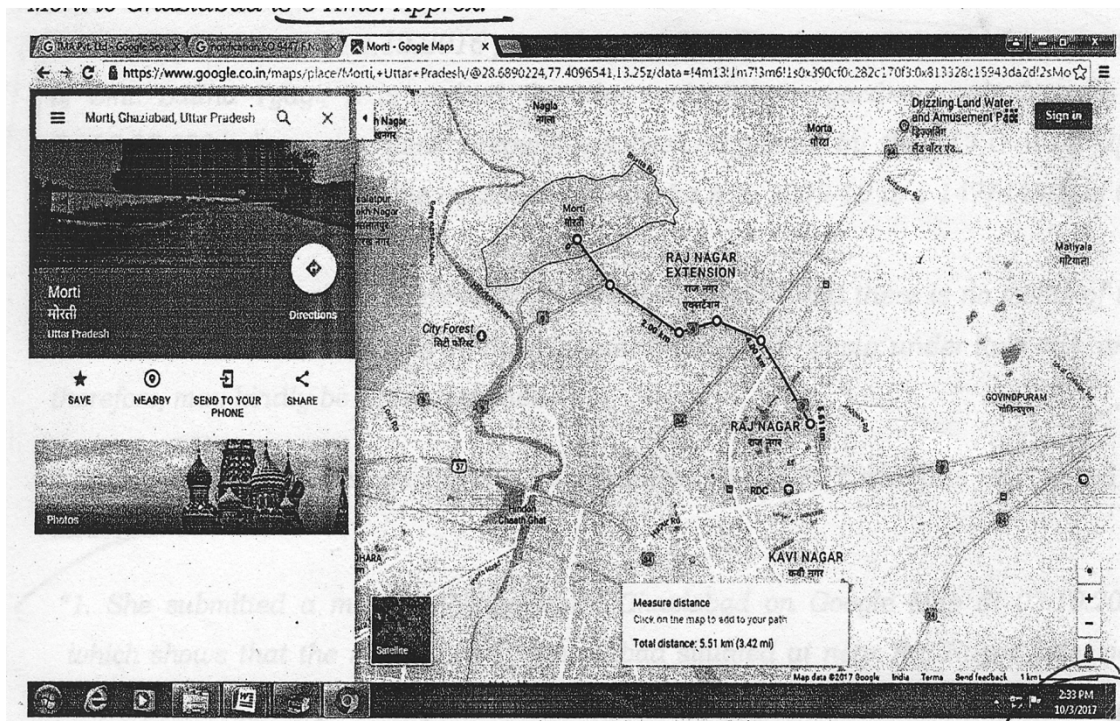
(a) Jewellery (b) Archaeological collections (c) Drawings (d) Paintings (e) Sculptures (1) Any work of art.

(iii) Agricultural land in India not being land situate-

(a) In any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee or by any other name) or a

cantonment board and which has population of not less than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year.

4. As per the notification under Section 2(1A)(C), proviso, Clause (II)(B) and Section 2(14)(III)(B) notification No. (SO 9447 F.No.164/3/87-IOTA.I dated 06.01.1994 (copy enclosed) the area of the capital assets notified by above circular Ghaziabad was areas upto a distance of 8 Kms. from the municipal limits in all directions. The lands sold by the assessee were situated at Village- Morti, Ghaziabad. The village -Morti, Ghaziabad situated at near Raj Nagar Extension, Ghaziabad. As per Google Map the distance from Morti to Ghaziabad is 6 Kms. Approx.



Thus, the lands sold by the assessee are clearly capital assets as it is situated within the notified area of Municipal corporation of Ghaziabad.

5. However, in support of lands sold by the assessee were as capital assets, the copy of notification issued by Nagar Nigam, Ghaziabad in the year 1995, under which

village: Morti was covered under the Nagar Nigam with effect from 25 November 1994 is enclosed for your honour's kind perusal.

6. Further, on perusal of record it is noticed that vide letter dated 25.09.2017, the A.R of the assessee has submitted before your honour that (in page no. 1) That the Agricultural Land with is sold on 16.06.2008 for Rs.69,60,720 and Rs.65,35,104.00 jointly with Smt. Sudha Tyagi at village Morta is not capital assets within the definition of section 2(14) of 1.Tax Act hence profit comes from sale of land no. 1&2 of Rs.53,42,336,00 exempted u/s 2(14) and on that basis ITO ward 2(3) accept the case of Smt. Sudha Tyagi u/s 143(3) of I. Tax". He further submitted in the letter that (in page no.2) That both the agriculture land is not the Capital Assets within the definition of section 2(14) of I. Tax Act. Hence profit on sale of above land as calculated as per page-1 of Rs.5342336.00 exempted u/s 2(14) of the I.Tax Act and on that basis the case of the assessee sister in law and co-owner of above agriculture land Smt. Sudha Tyagi was final by ITO ward 2(3) Ghaziabad. Copy of notice of ITO Ward 2(3) to Smt. Sudha Tyagi as per page -2 and copy of assessment order of Smt. Sudha Tyagi as per page-3." However, on perusal of assessment order dated 2.12.2016 passed by the ITO, Ward 2(3), Ghaziabad in the case of Smt. Sudha Tyagi, it is noticed that the only issue regarding cash deposit of Rs. 10,25,000/- in saving bank account has been examined by the LT.O Ward 2(3), Ghaziabad, while passing the assessment order for A.Y. 2009-10 u/s 147/143(3) of the Act.

6. In the light of the above mentioned facts, it is submitted that there is no merits of the additional evidences submitted by the assessee before your honour under Rule 46A, and, therefore, may kindly be not entertained."

5.12 A rejoinder was filed during the discussion on 13.11.2017 which is reproduced as under:

"1. She submitted a map of Village Morti, Ghaziabad on Google Map dt 03.10.2017 which shows that the village Morti, Ghaziabad situated at near Raj Nagar Extension, Ghaziabad and as per Google Map the distance from Morti to Ghaziabad is 6 Kms approx as per road distance marked in the Google map. (Since the land in question is less than the distance of 8 K M as notified by Notification NO: (SO 9447) F No: 164/3/87-IOTA.I dt. 06.01.1994, the land is a capital asset U/s 2(14) of the Income Tax Act).

2. That she placed reliance on the Notification issued by the UP Government in powers of Section 3(2) of the UP Nagar Nigam Act, 1959 which says that Village Morti covered under the Nagar Nigam Ghaziabad w.ef. 25.11.1994.

3. That ITO Ward 2(3), Ghaziabad not considered the issue regarding grant of exemption to the co-owner of the land being sister in law Smt Sudha Tyagi as per the id AO in the remand report held that the concerned ITO, Ward-2(3) examined the case of Smt Sudha Tyagi on the basis of AIR information of cash deposit and left the vital issue of sale of agricultural land for examination.

**Now, the assessee begs to submit as under:**

1. That the Id A O submit the Google MAP of Village Morti on dt. 03.10.2017 when the area of Village comes near Raj Nagar Extension and shows distance of village Morti to Ghaziabad as 6 K M as applicable on dt. 03.10.2017 and not calculated the distance on the date of sale of agricultural land which was 16.06.2008. The alleged distance of 6 K M is as in year 2017 which comes after 9 years of development in the area. The road as shown in the map was not in existence in the year 2008 and the shortest road distance of the village Morti, Ghaziabad from the municipal limits of Ghaziabad Nagar Nigam was more than 8 KM.

The assessee place reliance on the following documents:-

a. CBDT circular No.: 17/2015 dt 06.10.2015 which says that for the period prior to A Y 2014-15, the distance between the municipal limits and the agricultural land is to be measured having regards to the shortest road distance. Copy as per Annexure-1.

b. The assessee rightly submit the certificate from the Ghaziabad Nagar Nigam office dt. 23.06.2008 (Annexure 2), that the agricultural land which was sold on dt. 16.06.2008 was beyond the distance of 8 K M from the municipal Limit of Ghaziabad Nagar Nigam The said certificate has been considered by the AO in the remand report and no adverse comments has been made by the AO in this regard. The A O only rely on the Google map of 2017 which is wrong and irrelevant.

c. That the agricultural land in question was a agricultural land and used for agricultural purposes by the assessee. The said land was sold as agricultural land by the assessee. Kindly check the copy of the sale deed of the land dt. 16.06.2008, wherein the land in question was sold to M/s IMA Private Limited as a agricultural land, So, there is no dispute that the land in question was agricultural land at the time of purchases and at the time of sale.

d. That the population of Village Morti Ghaziabad as per census of 2011 was 7918 as submitted in our previous reply dt. 25.09.2017.

e. On the above issue the assessee place reliance on the Delhi ITAT judgment in appeal No.: 5028/DEL/2011 the case of Smt Chand Prabha Jain Vs ACIT, New Delhi and appeal No.: 5029/DEL/2011 in case of Sudhir Kumar Vs ACIT, New Delhi. In which it was held that the distance of land sold was to be seen at the time of sale of land and later development, if any will become of no consequence as the question to be determined is that whether or not on the date of sale the land falls within the parameters of agricultural land as section in Section-2(14). So, shortest

road distance has to be considered as on the date of sale of land (16.06.2008). Copy of order as per Annexure-3.

2(a). That in respect of 2nd objection that the U P Government issued notification in 1995 that land at Village Morti come under the Nagar Nigam, Ghaziabad w.e.f. 25.11.1994. In this connection, it is submitted that the Ghaziabad Nagar Nigam constituted w.e.f. 31.08.1994 as per Annexure - 4. The said notification issued by the UP Government in power of Section-3(2) of the UP Nagar Nigam Act, 1959. Copy as per Annexure - 5. Section-3 of the UP Nagar Nigam Act, 1959 reads as under:-

### **3. Declaration of larger urban area. -**

(1) Any area specified by the Governor in a notification under clause (2) of Article 243-Q of the Constitution with such limits as are specified therein to be a larger urban area, shall be known as a City, by such name as he may specify.

(2) Where, by a subsequent notification under clause (2) of Article '243-Q of the Constitution the Governor includes any area in a city, such area shall there by become subject to all notifications, rules, regulations, bye-laws, orders and directions issued or made under this or any other enactment and in force in the city at the time immediately preceding the inclusion of such area and all taxes, fees and charges imposed under this Act, shall be and continue to be levied and collected in the aforesaid area.

So, by the above notification the notified villages comes in the larger urban Area of Ghaziabad, so that such area could not be held to be falling in the area of some other Municipal area or district say Hapur, Noida or Merrut. But the said notification does not held that the Morti Village falls under local limits of Ghaziabad Nagar Nigam as presumed by the ld AO to justify her actions.

2(b) The assessee enclosed the certificate from Gram Pradhan Morti Village dt 12.11.2017 in which it was mentioned that there is elected Gram Panchayat in Village Morti and Village Morti does not fall in the limits of Ghaziabad Nagar Nigam. Copy as per Annexure-6.

3. That in respect of 3rd objection of the AO in the remand report that the issue of exemption on the /% share of the other co-owner was not examined by the ITO Ward – 2(3), Ghaziabad

The assessee submit the following evidence in this regard:

a. The enclosed certificate Page 2 issued by the Nagar Nigam, Ghaziabad dt, 27.06.2008 issued in the name of both the owners Namely Smt Krishna Devi & Smt Sudha Tyagi and the said certificate filed by Smt Sudha Tyagi before the ITO Ward - 2(3), Ghaziabad during the course of assessment proceedings U/s 143(3)/147 of the I Tax Act, 1961.

b. The ITO, Ward - 2(3) raised the query No.: 2 vide notice U/s 142(1) dt 25.11.2016 extracts as under-

You along with Smt. Krishna Devi have jointly sold agricultural land at Village Morte, Ghaziabad for sale consideration of Rs. 69,60,720/- and stamp duty was paid on the value of Rs. 71,92000/- as per registered sale deed dated 16.06.2008. Further, you have jointly sold agricultural land at Village Morte for sale consideration of Rs. 65,35,104/- and stamp duty was paid on the value of Rs. 67,55,498/- as per sale deed dated 16.06.2008. Since the land sold falls within 8 KM from the municipal limits of Ghaziabad, the land covers with the definition of Section 2(14) of the Income Tax Act, 1961. You are therefore required to furnish computation of capital gains with the working note on the indexed cost of acquisition.

Copy of the notice as per Annexure-7.

*C. That the said assessee given reply on the above query vide reply in para 2 as under:*

*In reference to the agricultural land sold at Village Morte, Ghaziabad we have furnished documentary evidence which clearly provide that the mentioned agricultural land is situated in sub division Jalalabad which does not come within the limits of Ghaziabad Municipality as the mentioned land is beyond the distance of 8-9 KM from the municipality. Hence the agricultural land does not fall under capital assets and we would be unable to furnish the computation of the capital gain on sale made jointly with Mrs Krishna Tyagi Copy of the reply as per Annexure-8.*

*d. That in this regard the appellant move letter before the ITO Ward-2(3), Ghaziabad on dt. 27.10.2017 Copy as per Annexure-9 for issue of certificate that the issue of capital gain on sale of agricultural land in the case of Smt Sudha Tyagi has been examined.*

*e That the ITO Ward-2(3), Ghaziabad vide letter dt. 08.11.2017 refused to issue any certificate. Copy as per Annexure-10 and also not put any objection regarding the grant of exemption U/s 214) of the Income Tax Act on the sale of agricultural land in question. Therefore, the above evidence shows that the issue of capital asset not falling U/a 2014) of the Income Tax Act, 1961 has been duly examined by the ITO Ward-2(3) in the case of other co-owner Smt Sudha Tyagi.”*

7. It is found that during the assessment proceedings, the assessee has not appeared and produced any documents to show that the two immovable properties sold by the assessee is more than 8 K.M. away from the outer limit of the Municipality to come

out of the clutches of provision of Section 2(14)(iii)(b) of the Act. As per the Remand Report, it is clear that the village Motra/Morti is 2.5-03 K.M. away from the outer limit of the GMC, which is contrary to the stand taken by the assessee before us that the distance of village Morti would be more than 8 K.M. from the outer limit of Ghaziabad Municipal Corporation. It is the contention of the Ld. AR that the Google map relied by the CIT(A) and the A.O. in the remand report is of the year 2017 and the property has been purchased way back in 2008, therefore, the distance measured with the help of Google Map cannot be relied. The said contention the Ld. AR does not have any merit as distance between the property and the outer limit of the municipality will not increase or decrease until and unless there is expansion of the boundaries of the receptive places. De-hors the Google Map, the fact remains that the distance from Rajnagar Extension area to village Morta/Morti is in the visit of 2.5 kilo meters only and in any circumstances even during the sale of the property in the year 2008, the distance of village Morta would be less than 8 kilo meters from the outer limit of the Ghaziabad, Municipal Corporation.

8. The Assessee's Representative has emphasized on the assessment order passed u/s 143(3) of the Act in the case of co-owner, wherein the A.O. of the co-owner claimed to have accepted the contention that the land is situated beyond a distance of 8 kilometers.

9. We have gone through the order passed u/s 143(3) of the Act in the case of the co-owner Smt. Sudha Tyagi, there is no mention/adjudication regarding the issue of grant of exemption to Assessee Smt. Sudha Tyagi in the assessment order. The material available on record in the present case were also not been looked into by the A.O. of the co-owner besides the same, even if the A.O. of the co-owner erroneously grants the exemption and refrained from making addition u/s 50C of the Act, the fact remains that the properties which were sold by the Assessee along with the co-owner is not beyond 8 kilometers of distance from the outer limit Ghaziabad Nagar Nigam (GMC).

10. In so far as the certificate issued by the Ghaziabadad Nagar Nigam is concerned, considering the fact that during the Remand

proceedings, the Ld. A.O. after making extensive enquiry and also relying on the corroborative evidences, found that the village Morti/Morta is only 2.5-03 kilometers from the outer limit of the Ghaziabad Municipal Corporation. Therefore, we do not give much importance to the contents of the certificate which is far from truth. Considering the above facts and circumstances, we find no error or infirmity in the order of the CIT(A) in upholding the disallowance made by the A.O. Further we are of the opinion that the CIT(A) has rightly directed the A.O. to recomputed the capital gain of Rs. 69,73,749/- by reducing the cost of acquisition of the said properties from the total sale consideration in the land of the Assessee. In view of the above discussions, we find no merit in the Grounds of Appeal of the Assessee, accordingly, the Appeal filed by the Assessee is dismissed.

Order pronounced in open Court on 09<sup>th</sup> November, 2023.

Sd/-

**(SHAMIM YAHYA)**  
**ACCOUNTANT MEMBER**

Dated: 09/11/2023

*Pk/R.N, Sr.ps*

Sd/-

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI