

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.823/Bang/2023
Assessment Year : 2010-11

Shri. Ramprakash H. V. (HUF), 312, 3 rd Main, 4 th Cross, OMBR Layout, Bengaluru – 560 043. PAN : AAPHR 3658 J	Vs.	ACIT, Circle – 1(2)(2), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. H. V. Gowthama, CA
Revenue by	:	Shri. G. Manoj Kumar, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	14.12.2023
Date of Pronouncement	:	14.12.2023

ORDER

Per George George K, Vice President :

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 31.08.2023, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2010-11.

2. The grounds raised reads as follows:

1. *The Ld. Commissioner of Income Tax (A) erred in confirming the order of the Ld. Assessing Officer, wherein the addition of Rs.28,77,700/- was made based on the guideline value in respect of the commercial units sold by the Appellant.*

2. *The Ld. Commissioner of Income Tax(A) erred in not considering the Additional Grounds filed by the Appellant on 13.02.2019, which was handed over to the Commissioner of Income tax(A), physically on 13th Feb.2019 on the basis of which the Ld. Commissioner of Income tax(A) had required the Assessing Officer to refer the matter of Valuation Officers of the Departmental Valuation Officer.*
 3. *The Ld. Commissioner of Income Tax(A) ought to have considered the valuation of the units sold, based on the Valuation Report provided by the Departmental Valuation Officer.*
 4. *The Appellant submits that in respect of document No.2273 sold on 22.01.2010, the valuation made by the Departmental Valuation Officer is much less than the sale consideration and therefore The Ld. Commissioner of Income Tax(A) totally ignoring the matter of Valuation Report made by the Departmental Valuation Officer, was not justified.*
 5. *For the above and any other grounds that may be advanced at the time of hearing, the Appellant prays that the Appeal be allowed.*
3. Brief facts of the case are as follows:

Assessee is a Hindu Undivided Family (HUF). For the Assessment Year 2010-11, the return of income was filed declaring income of Rs.1,00,52,800/-. The AO received information that assessee had entered into a Joint Development Agreement (JDA) with M/s. Elegance Builders on 05.06.2006. Assessee had sold certain built-up area it had received as its share during the relevant Assessment Year 2010-11. The sale consideration received for same was Rs.1,56,64,780/-. The AO noticed that the guidance value / stamp duty value corresponding to assessee's property was Rs.1,85,42,480/-. Since there was a difference between the sale consideration received by the assessee and the guidance value, the AO issued notice under section 148 of the Act, directing the assessee to reconcile the difference between the stamp duty value and the sale consideration received which

was in violation of section 50C of the Act. Assessee, vide letter dated 0.11.2017 requested the AO to refer the matter to the Valuation Cell of the Income Tax Department. However, the assessment was completed under section 143(3) r.w.s. 147 of the Act vide order dated 28.12.2017. In the said order, the AO added Rs.28,77,700/- being the difference between the guidance value and the sale consideration received by the assessee (Rs.1,85,42,480 - Rs.1,56,64,780).

4. Aggrieved, assessee filed appeal before the First Appellate Authority (FAA). Before the FAA, assessee filed additional grounds on 13.02.2019 requesting the matter to be referred to the Valuation Cell of the Department. It is understood that the matter was referred during the course of appellate proceedings to determine the value of the property sold by the assessee. The valuations of impugned property were obtained vide two reports (both dated 01.05.2020). However, the CIT(A), without taking notice of the valuation reports, confirmed the AO's addition of Rs.28,77,700/-. The relevant finding of the CIT(A) reads as follows:

“5.3 During the appellate proceedings, the appellant contended on same issue as it did during the assessment proceedings. The appellant claimed that the property was not marketable and hence the sale consideration should be considered for the computation of capital gains. However it is noted that the appellant had paid stamp duty on the value determined by the stamp valuation authorities of the State. For the purpose of stamp duty value, the appellant did not take ground that market value of the property is less than the one determined by the stamp valuation authorities and hence the stamp duty should be computed on the basis of sale consideration only. When the appellant accepted the stamp duty value for the purpose of entering the agreement, it could not deny its liability by rejecting the stamp duty value for the purpose of computation of capital gains as per provisions of the Income Tax Act. Therefore I hold that the AO has correctly made the addition of Rs.28,77,700/- by duly following the provisions of Section 50C of the Act. Accordingly, Ground No. 1 to 6 are dismissed.”

5. Aggrieved by the order of the CIT(A), assessee has filed the present appeal before the Tribunal. Assessee has placed on record the valuation reports with regard to valuation of the two properties sold by assessee during the relevant financial year. The AR submitted that the learned CIT(A) has ignored the valuation reports submitted by valuation officer of the Department. It was submitted that valuation fixed by valuation officer of the Department is binding and the value fixed therein needs to be adopted for calculating the capital gains.

6. The learned DR supported the orders of the AO and CIT(A).

7. We have heard the rival submissions and perused the material on record. On perusal of the valuation reports submitted by the valuation officer of the Department, we find that the value arrived at is far below the guidance value adopted by the AO under section 50C of the Act. As per the provisions of section 50C of the Act, when a property has been referred for valuation to the Valuation Officer and a report has been obtained, necessarily the value so arrived in the report needs to be adopted for determining the capital gains. In the instant case, the CIT(A) has ignored the valuation reports that were obtained during the course of appellate proceedings. Therefore, we are of the view that the matter needs to be examined afresh by the CIT(A). The CIT(A) is directed to examine the valuation report submitted by the Valuation Officer of the Department and adopt the value arrived in the report for the purpose of determination of capital gains. It is ordered accordingly.

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

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(LAXMI PRASAD SAHU)
Accountant Member

Bangalore.

Dated: 14.12.2023.

/NS/*

Sd/-

(GEORGE GEORGE K)
Vice President

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|---------------|-------------------------|
| 1. Appellants | 2. Respondent |
| 3. DRP | 4. CIT |
| 5. CIT(A) | 6. DR, ITAT, Bangalore. |
| 7. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore.