

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC - C” : BANGALORE**

BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT

ITA No.910/Bang/2023
Assessment Year : 2007-08

Smt. Sivamma, No.116, K Salundi Kergalli Post, Jayapura Hobli, Myosre Tq, Mysore – 570 026. PAN : FYNPS 1151 Q	Vs.	ITO, Ward –1(3), Mysore.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Sunaina Bhatia, CA
Revenue by	:	Shri. Ganesh R Ghale, Standing Counsel for Revenue.

Date of hearing	:	20.12.2023
Date of Pronouncement	:	20.12.2023

ORDER

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 05.10.2023, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2007-08.

2. At the very outset, I notice that the appeal of the assessee before the CIT(A) has been decided ex-parte. The reason for deciding the appeal ex-parte was that assessee did not respond to notices issued on 04.03.2020 and 04.09.2020 from the Office of the CIT(A) for filing the written submissions. The learned AR submitted CIT(A) has erred in sustaining Rs.34,04,572/- as long-term capital gains on the transfer of agricultural land (ancestral property) and the agricultural land belonged to the joint family of the deceased husband of the assessee and not to the assessee

individually. It is also submitted that assessee is aged and illiterate. It was submitted that in the interest of justice and equity, assessee may be provided with one more opportunity to represent her case before the AO, since the assessment was completed under section 144 of the Act.

3. The learned Standing Counsel was duly heard.

4. I have heard the rival submissions and perused the material on record. The CIT(A) has not decided the issue on merits since the assessee has not responded to the notices issued on 04.03.2020 and 04.09.2020. Assessee is a senior citizen and illiterate. In the interest of justice and equity, I am of the view that one more opportunity ought to be granted to the assessee to present her case. In the instant case, since the assessment was completed under section 144 of the Act, I deem it appropriate to remit the issue raised on merits to the files of the AO. The AO is directed to afford reasonable opportunity of being heard to the assessee. The assessee is directed to co-operate with the Revenue and not to seek unnecessary adjournments. With the aforesaid observations, I restore the matter to the files of the AO.

5. 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/-

**(GEORGE GEORGE K)
Vice President**

Bangalore.

Dated: 20.12.2023.

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Copy to:

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

By order

Assistant Registrar,
ITAT, Bangalore.