

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND  
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER**

ITA No.1009/Bang/2023
Assessment Year : 2012-13

Smt. Mangalagiri Tulasi, 791/40 14 <sup>th</sup> Main, 3 <sup>rd</sup> Block, Rajajingar, Bengaluru – 560 010. <b>PAN : AIHPT 2167 N</b>	Vs.	ITO, Ward –2(2)(2), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Ravi Shankar, Advocate
Revenue by	:	Shri. Nischal B, Addl CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	17.01.2024
Date of Pronouncement	:	17.01.2024

**ORDER**

***Per George George K, Vice President:***

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 03.10.2023, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2012-13.

2. Assessee has raised 15 grounds. The grounds raised by the assessee relates to the legal issue to validate assessment completed under section 144 r.w.s. 148 of the Act as well as on merits as regards taxability of a sum of Rs.1,01,39,166/- as long-term capital gains from sale of a land.

3. At the very outset, we notice that CIT(A) has dismissed the appeal *in limine* without adjudicating the issues on merits since several notices issued from the

Office of the CIT(A) was not complied with by the assessee. The learned AR submitted that assessee was never in receipt of notices issued from the Office of the CIT(A) as the same may have settled in the spam folder of the assessee's email ID. Further, the learned AR submitted that assessment was completed under section 148 r.w.s. 144 of the Act and assessee was never in receipt of the notices issued under section 148 of the Act. On merits, the learned AR submitted that the sale of property on which assessee has been made liable for long-term capital gains has been cancelled by a Civil Court.

4. Learned DR supported the orders of the AO and the CIT(A).

5. We have heard the rival submissions and perused the material on record. The assessee submits that assessee cannot be made liable for capital gains since sale of the impugned property has been cancelled by the Civil Court. In the interest of justice and equity, we are of the view that assessee should be given an opportunity to prove her case that the property in question for which she is made liable for long-term capital gains has not been sold / sale has been cancelled by the Civil Court. For examining the said issue, the matter is restored to AO. Assessee shall co-operate with the Revenue and shall not seek unnecessary adjournment in the matter. It is ordered accordingly.

6. Since we have restored the matter on merits to the files of the AO, the grounds relating to the legal issue are left open and not adjudicated.

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

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

**Sd/-**

**(CHANDRA POOJARI)**  
**Accountant Member**

**Sd/-**

**(GEORGE GEORGE K)**  
**Vice President**

Bangalore.

Dated: 17.01.2024.

/NS/\*

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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.