

| आयकर अपीलिय अधिकरण न्यायपीठ, कोलकाता |  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" BENCH, KOLKATA

BEFORE DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 1227/Kol/2023

Assessment Year: 2014-15

Durga Charan Shankar Century Jewellers Khudiram Pally Siliguri Darjeeling -734001 [PAN: AVRPS4506K]	Vs	Income Tax Officer, Ward - 1(3), Siliguri
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Soumitra Choudhury, Advocate
Revenue by :	Shri. S.B. Chakraborty, JCIT, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 07/03/2024  
घोषणा की तारीख /Date of Pronouncement: 01/04/2024

आदेश/ORDER

**PER DR. MANISH BORAD, ACCOUNTANT MEMBER :**

The present appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre, Delhi, [hereinafter the "Id. CIT(A)"] dt. 22/06/2023, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for the Assessment Year 2014-15.

2. The Registry has pointed out that there is a delay of 88 days in filing of this appeal. There is a petition for condonation of delay stating therein, the reasons for the delay. On perusal of the petition, we are convinced that the assessee was prevented for reasonable cause from filing this appeal in prescribed time limit. Accordingly, we condone the delay and admit the appeal for hearing on merits.

3. At the outset, the Id. Counsel for the assessee submitted that the only issue for our adjudication is that whether the immovable property i.e., the land sold by the assessee during the year at the

consideration of Rs.6,00,000/-, is an agricultural land not falling under the category of capital asset u/s 2(14) of the Act. He was fair enough to accept that the assessee failed to appear before the lower authorities and the documents placed on record before this Tribunal were not filed before the lower authorities and thus, prayer was made to restore the issue before the Assessing Officer for necessary verification, to which the ld. D/R did not object.

4. We have heard rival contentions and perused the material placed before us. We notice that the assessee is an individual and declared income of Rs. 3,59,360/- in the income tax return for Assessment Year 2014-15 filed on 27/03/2015. As per the information available with the Assessing Officer, assessee was found to have sold immovable property during the year for a sale consideration of Rs.6,00,000/- and this transactions was not declared in the income tax return. Further, the ld. Assessing Officer noticed that the stamp value of this property was determined at Rs.24,00,002/-. In absence of any reply from the assessee, Rs.24,00,002/- was treated as long term capital gain and added in the hands of the assessee. The assessee failed to appear before the ld. CIT(A) on the given dates of hearing. Before us, the assessee has filed a paper book containing 44 pages which includes copy of Indian Village Directory about Tumba Mouza and copy of bank account, deed of conveyance and purchase deed. The sole claim of the assessee is that immovable property in question is an agricultural land not falling under the category of capital asset u/s 2(14) of the Act and the profit from sale thereof is exempt from tax.

5. We notice that these details were not furnished before the lower authorities and, therefore, in the interest of justice and being fair to both the sides, remit the issue to the file of the Assessing Officer for afresh adjudication in accordance with law in the light of the documents and evidences to be filed by the assessee in support of its claim. Needless to mention that a fair opportunity of being heard should be provided to the assessee for appearing before the Assessing Officer.

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

**Order pronounced in the Court on 1<sup>st</sup> April, 2024 at Kolkata**

*Sd/-*  
**(DR. MANISH BORAD)**  
**ACCOUNTANT MEMBER**

Kolkata, Dated 01/04/2024

*SC S.P.*

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Kolkata