

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : E : NEW DELHI

BEFORE SHRI G.S. PANNU, HON'BLE VICE PRESIDENT
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.2943/Del/2016
Assessment Year: 2010-11

Praveen Gupta,
Flat No. D-101, 1st Floor,
Tower No. D, Caitriona Residential
Apartment Complex, Ambience
Island, NH-8, Gurgaon 122001

Vs ACIT,
Circle-2,
Meerut.

PAN: ACJPG4777H

(Appellant)

(Respondent)

Assessee by : None
Revenue by : Shri Anshul, Sr. DR
Date of Hearing : 08.05.2024
Date of Pronouncement : 08.05.2024

ORDER

PER ANUBHAV SHARMA, JM:

The assessee is in appeal against the impugned order dated 30.03.2016 u/s. 154 of the Income Tax Act, 1961 (hereinafter referred as 'the Act') passed by Commissioner of Income Tax (Appeals or hereinafter referred as the Ld. First Appellate Authority) in Appeal against an assessment order dated 02.07.2014 passed by Assistant Commissioner of Income Tax, Circle-2, Meerut (hereinafter

referred as the Assessing Officer or in short AO) passed u/s. 154 of the Act, for the Assessment Year 2010-11.

2. As the case was called for hearing none has appeared for the assessee/applicant. Record shows earlier the appeal was decided ex-parte on 31.01.2019 and subsequently in MA No. 292/Del/2019 by order dated 13.02.2023, the ex-parte order was recalled at the instance of the assessee and at the time of allowing the application the co-ordinate bench had fixed the appeal for hearing on 19.04.2023 which was announced in the court on the conclusion of the hearing. The order in miscellaneous application mentions no notice will be given in this regard. The record shows thereafter on 19.04.2023, none appeared for the assessee, subsequently notices have been issued to the assessee but have been received back un-served, however, on 25.01.2024 and 15.02.2024 Shri Sunil Kumar, CA had put in appearance for the assessee. No more opportunities is justified arguments of Id. DR were heard who has supported the order of Id. Tax Authorities below.

3. On appreciating the material before us, it comes up that assessment of the assessee was completed u/s. 143(3) of the Act, and subsequently invoking powers u/s. 154 of the Act, by order dated 02.07.2014, the Assessing Officer had recalculated the capital gain by following observations:-

Subsequently, it was revealed from the assessment records that the assessee had sold a plot measuring 1362.5 sq. yard i.e. 1139.22 sq. mt. situated at Hill Street, Meerut (Bungalow No.80 Survey No.326). The circle rate of the area of the said property was at Rs.15,000/- per sq. mt. as per the Sub Registrar IV, Meerut. Thus, the valuation of the property as per circle rate was at Rs.1,70,88,300/- (1139.22 x 15,000). Valuation of the assessee's property (half share) is Rs.82,66,705/- (85,44,150 less 1/16 of index cost of acquisition Rs.2,77,445) but while computing the long term capital gain it was worked

out as Rs.4,46,985/-. This resulted in short account of capital gain to the tune of Rs.78,19,720/- (82,66,705 - 4,46,985) and the same was liable to be added to the total income of the assessee.

4. The assessee had challenged the same before the Ld. First Appellate Authority where the appeal was dismissed.

5. As we go through the impugned order of ld. First Appellate Authority, it comes up that claim of assessee was that he was owner of 1/8 share of the property in question and not of 50% as has been computed in the order u/s. 154. However, this being a factual aspect was not established by any documentary evidence, in the form of a genuine or original agreement to sell to claim that provisions of section 50C of the Act are not applicable. As there is no other material before us, the findings of ld. CIT(A) deserve no interference.

6. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 08.05.2024.

Sd/-
(G.S. PANNU)
VICE PRESIDENT

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 08th May, 2024.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi