

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC-'A' BENCH : BANGALORE**

BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER

IT(IT)A No. 155/Bang/2024
Assessment Year : 2017-18

Ms. Sunethra Rao, Suite 329 500 Doris Avenue, Toronto M2N0C1, Ontario 999999 Canada PAN: BAKPR4611P	Vs.	The Income Tax Officer, International Taxation, Ward – 2(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Anil Kumar .H, CA
Revenue by	:	Shri Ganesh R Ghale, Standing Counsel for Department

Date of Hearing	:	27-06-2024
Date of Pronouncement	:	27-06-2024

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal arises out of order dated 30.11.2023 passed by the Ld.CIT(A)-12, Bangalore for A.Y. 2017-18.

2. Brief facts of the case are as under:

2.1 The assessee filed her original return of income electronically on 20.07.2017, admitting Income from Other Sources of Rs.1,81,440/-. The assessee offered Nil capital gain computed on the total consideration of Rs.3,31,66,667/- from the sale of immovable property by claiming cost of acquisition of Rs.21,28,125/- and reinvestment u/s.54 and 54EC respectively.

2.2 The assessee, being one of three sellers of the property situated at No.2, New Municipal No.72/2 BBMP PID, No.78-61-72/2, "Muthiara" situated at Sampangi Ramaswamy Temple Road, Cunningham Road, Bangalore, received Rs.3,31,66,667/- as her share out of total consideration of Rs.9,95,00,000/-. The assessee submitted that, said property was bequeathed to the assessee and two others through a will executed by Smt. Belpu Vani, mother of the assessee, on 27.01.2010.

2.3 The assessee computed and claimed indexed cost of acquisition of the property at Rs.81,28,125/- i.e., 1/3rd share of indexed cost (21,67,500/- * 1125/100) adopting base value/cost of the land Rs.250/- per square foot and cost of built-up area of 2690 sq.ft. of the building thereon at Rs.10,89,500/-. On the Long-Term Capital gain arrived of Rs.2,44,98,647/-, the assessee claimed deduction/exemption u/s.54EC and 54 of Rs.43,00,000/- and Rs.2,01,98,647/- respectively and arrived at Nil taxable income under the head 'Capital Gains'.

2.4 Before the AO, the assessee submitted the following documents in support of computation of capital gains from the sale of the above property:

- Copy of the agreement to sell dated 23.01.2017
- Absolute Sale deed dated 01.03.2017 for having registered the Cunningham Road property for Rs.9,95,00,000/- which had been purchased on 26.07.1972.
- Copy of purchase deed dated 08.03.2017 for having purchased/reinvested in land situated at Varthur Hobli, Bangalore
- Sale and Construction agreement and Statement of account from Purvankara for apartment No. HA-1001, Purva White Hall (new asset).
- Copy of capital gains computation statement
- Copy of REC Bond for having invested Rs.43,00,000/-,
- Proof for incurring expenditure on construction,
- Valuation report from approved Valuer dated 09.03.2017, valuing the land rate at Rs.250 per square feet,

2.5 The Ld.AO was of the opinion that the cost of land and building sold, had been escalated, and so issued notice u/s.133(6) to the Sub Registrar, Kandhaya Bhavan, K.G. Road, Bangalore requesting information on the SRO value/Guidance value of the capital asset/land. Vide letter dated 14.11.2019, the Senior Sub-Registrar, Gandhinagar Bangalore informed the Ld.AO that the FMV/SRO value of the land per square foot was Rs.105/-during 1981 to 31.03.1983. The SRO also furnished a copy of the document of land registered during the F.Y. 1981-82.

2.6 The Ld.AO accordingly sent a show-cause notice to the assessee, proposing to adopt the fair market value of the land as on 1.4.1981 at Rs.105/- per sq. ft. The assessee disputed the such value and placed reliance on the approved valuer's report.

2.7 Thereafter, the case was referred by the AO to the District Valuation Officer for determination of the fair market value of the asset as on 01.04.1981, including the cost of land and building per sq. ft.

2.8 As the limitation period for completing the assessment was ending and the report of the DVO was still awaited, the assessment for A.Y. 2017-18 was concluded after adopting SRO value of the land for determining the cost of acquisition. The Ld.AO accepted the cost of the building as given in the valuer's report. The deduction claimed under cost of acquisition of Rs.82,69,102/- was considered at Rs.46,01,764/-, subject to the valuation report of the District Valuation Officer, Bangalore and also subject to the provisions of sub-section 15 of section 155 of Act. The AO disallowed expenses claimed for commission paid of Rs.3,81,416/- and expenses claimed under cost of acquisition of Rs. 4,22,932/- for sump tank construction, in the absence of documentary evidence.

2.9 Aggrieved by the order of the Ld.AO, assessee preferred appeal before the Ld.CIT(A).

3. Be that as it may, as the appeal was pending before the Ld./CIT(A) the Ld.AR submitted that, upon receipt of the DVO report, the Ld.AO passed the rectification order considering the 154 on 04.12.2020 against which the assessee has preferred appeal before the Ld.CIT(A).

4. Considering the fact that the issues raised in both the proceedings are interlinked with each other it is necessary for the Ld.CIT(A) to consider the appeal filed by the assessee against 154 order along with the issue raised in the present appeal. In the interest of justice, we deem it fit and proper to remit this appeal also to the file of Ld.CIT(A) to consider both the orders passed by the Ld.AO together in accordance with law.

Needless to say that proper opportunity of being heard must be granted to assessee.

Accordingly, the grounds of appeal raised by assessee stands partly allowed for statistical purposes.

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

Order pronounced in the open court on 27th June, 2024.

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 27th June, 2024.
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore
6. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore