

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH: COCHIN
(By virtual hearing)**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No.998/Coch/2022
Assessment Year: 2019-20

Uthuman Sahib Shaji Vayalikkottalazhikathu Veedu Vilakudi Kunnnikodu PO Pathanapuram PAN NO : EJPPS9359C	Vs.	DCIT Circle, International Taxation Trivendrum
APPELLANT		RESPONDENT

Appellant by	:	N o n e
Respondent by	:	Sri Sanjit Kumar Das, D.R.

Date of Hearing	:	04.07.2024
Date of Pronouncement	:	04.07.2024

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal by assessee is directed against assessment order for the assessment year 2019-20 dated 19.7.2022. The assessee raised following grounds of appeal:

- 1. The order of the assessing officer is against facts, law and circumstances of the case.*
- 2. The assessing officer has erred in referring the assessment to the Dispute Resolution Panel as the requisite conditions are not satisfied in the present case.*
- 3. The assessing officer and-the Dispute Resolution Panel ought to have found that the provisions of section 144C of the Income tax Act are not applicable to the appellant.*
- 4. The assessing officer and the Dispute Resolution Panel has grossly erred in not considering and deciding the preliminary objection raised*

by the appellant regarding the applicability of the provisions of section 144C of the Income tax Act to the present case.

5. *The assessment order dated 19-07-2022 is barred by time*
 6. *The assessment order dated 19-07-2022 is bad in law as the same has been passed without considering the Valuation Report and other evidences filed by the appellant.*
 7. *The rejection of the valuation report of the Registered Valuer on the ground that it is not reliable as it is not from the District Valuation Officer is unfair and unjust and not tenable in law.*
 8. *They non-consideration of the additional evidences filed by the appellant without assigning any reason amounts to gross violation of the principles of natural justice.*
 9. *The assessing officer and the Dispute Resolution Panel ought to have taken a realistic view in respect of the transaction The assessing officer has grossly erred in overlooking the basic fact that the land was 'wet land' as per the Government records which was later converted to saleable plots after incurring huge development expenditure.*
 10. *The assessing officer has erred in not allowing the land development expenses and cost of improvements in the facts and circumstances of the case.*
 11. *The assessing officer has grossly erred in passing the assessment order without considering the report of the District Valuation officer as directed by the Dispute Resolution Panel.*
 12. *The assessment order passed on 19-07-2022 is bad in law as the same has been passed without following the directions of the Dispute Resolution Panel.*
 13. *The reasons stated by the Dispute Resolution Panel to uphold the value adopted by the assessing officer are not based on any material or logic.*
 14. *Any other ground that may be adduced at the time hearing*
- 2.** At the time of hearing, the assessee not pressed ground Nos.2 to 5 and pressed only ground Nos.6 to 14, which is with regard to sustaining addition without considering the District Valuation Officer's report.
- 3.** At the outset, it is observed that there was a delay of 77 days in filing the appeal before this Tribunal. The assessee filed a

condonation petition along with affidavit stating that assessee was non-resident and was out of India during these days and it took time to receive the assessment order and to hand over to the assessee's counsel. Thus, there was a delay of 77 days in filing the appeal before this Tribunal.

4. We have heard the rival submissions and perused the materials available on record with regard to condonation of delay. We find there is a good and sufficient reason in filing the appeal belatedly by 77 days before this Tribunal. Accordingly, the delay of 77 days is condoned and admitted for adjudication.

5. Facts of the issue are that in the assessment year under consideration, assessee transferred an immovable property for a sale consideration of Rs.5,12,79,553/- which acquired in the year 2007-08. In the return of income, assessee has claimed cost of acquisition at Rs.96,99,308/- and indexed cost of improvement was Rs.3,40,24,112/-. The ld. AO called for the details of cost of improvement, which the assessee failed to produce. Hence, he computed long term capital gains at Rs.4,17,20,483/- after granting indexed cost of acquisition at Rs.95,59,070/-. Before the ld. DRP, assessee produced the valuation report of immovable property from M/s. Y-Shakh Project Management & Consultancy Service. The ld. DRP of the opinion that the valuation report was not from the DVO, hence, not given credence to valuation report furnished from the registered valuer and the ld. DRP while giving the direction observed that the ld. AO has to obtain the DVO report and decide the issue afresh. Consequent to the ld. DRP's direction, the ld. AO passed the order u/s 143(3) r.w.s. 144C(13) of the Act without the DVO's report. Hence, the assessee submitted that the issue may be remitted to the file of ld. AO to consider the DVO's report and decide the issue afresh. The ld. D.R. fairly conceded that issue may go back to the ld. AO for fresh consideration in the light of DVO's report.

6. We have heard the rival submissions and perused the materials available on record. In this case, the assessment has been made by ld. AO without getting the DVO's report with regard to cost of acquisition of property, which has been transferred by the assessee in the assessment year under consideration. The DVO's report is not in the hands of assessee. The ld. AO has to procure the same. Hence, in the interest of justice, we remit the entire issue in dispute to the file of ld. AO in the light of above observations.

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

Order pronounced in the open court on 4th July, 2024

Sd/-
(Soundararajan K.)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 4th July, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.