

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA

**BEFORE DR. MANISH BORAD, AM
AND
SHRI SONJOY SARMA, JM**

**ITA No. 832/KOL/2024
(Assessment Year: 2012-13)**

**Murari Mohan Moni
Ward No.13, Munsefdanga
Raghunathpur,
West Bengal-723133**

Vs.

**Income Tax Officer,
Ward 3(3), Purulia,
West Bengal-713304**

(Appellant)

(Respondent)

PAN No. ADQPM3685E

Assessee by : Shri Sheikh Muhammad Asif Ali, AR
Revenue by : Shri Gautam Patra, DR

Date of hearing: 20.08.2024

Date of pronouncement: 29.08.2024

ORDER

PER DR. MANISH BORAD, AM:

This appeal at the instance of the assessee is directed against the order of Commissioner of Income-tax (Appeals) [learned CIT (A)] dated 23rd February, 2024, which is arising out of the assessment order under Section 147/143(3) of the Income-tax Act, 1961 (the Act) dated 27th December, 2019.

02. The assessee has raised following grounds of appeal: -

"1. That on the fact and circumstances of the case Ld. CIT appeal National faceless Centre (NFAC) Delhi erred in confirming the addition made by the AO ward 3(3) Asansol without appreciating the written submission made by the appellant in course of appeal proceeding.

2. That on the fact and circumstances of the case Ld. appellant authority (NAFC) Delhi erred in confirming the addition of Rs.19,64,500/- In the matters of this deposit amount, this amount is entire 1 receive from my land sale amount Swarnabhumi Developers Ltd. the original fact is this company is betray to me after the deed complete. The company authorization person he commitment to me but he did not submit the entire money. I am an old person and I am hopeless and every time and every moment I knock for the company and they start the payment partially in cash for the FY 11-12 and all the cash amount I deposited my UCO Bank account. I also inform to you I always want a justify that this amount is no other source of income this is my legal money please attention to this point.

3. That on the fact and circumstances of the case Ld. appellant authority (NAFC) Delhi erred in confirming the reason of Rs.30,64,460/- being the different arranging out of deed value and Circle rate u/s 50 where as it is mandatory of the part of the A.O refer the matter to DVO to for valuation.

4. That on the fact and circumstances of the case Ld. The appellant reserve right to adduce further ground or grounds at the time of hearing of appeal before the I.T.A.T."

03. Brief facts of the case are that the assessee is an individual and return for A.Y. 2012-13 electronically filed on 14th June, 2013, declaring income of ₹99,525/-. Thereafter, the case reopened by issuance of notice under Section 148 of the Act followed by validly serving notices under Section 143(2), 142(1) of the Act. The learned Assessing Officer called for

certain information by issuing notice under Section 133(6) of the Act and concluded the reassessment proceedings making two additions firstly, for unexplained cash deposit of ₹19,64,500/- and secondly, addition for violation of section 50C of the Act at ₹30,64,460/-.

04. Aggrieved assessee preferred the appeal before the learned CIT (A), claiming that as regards to the addition made for violation of Section 50C of the Act, there has been an abnormal increase in the stamp duty value and the matter needs to be referred to the District Valuation Officer (DVO) for assessing the fair market value. As regards the unexplained cash deposit, it was stated that the share from sale proceeds of immovable property was received in cash on various dates and the same has been deposited in the bank. However, the learned CIT (A) was not satisfied and he dismissed the assessee's appeal. Aggrieved, assessee is now in appeal before this Tribunal.
05. The learned counsel for the assessee made a prayer for restoring all the issues to the file of the learned Assessing Officer with a direction that for the purpose of assessing the fair market value of the immovable property in question, reference may be made to the DVO and so far as unexplained cash deposit issue is concerned, copy of sale deed is enclosed which can be verified by the learned Assessing Officer as assessee has received his share of sale consideration in cash from the sale of immovable property.
06. On the other hand, the learned Departmental Representative vehemently argued supported the orders of the learned lower authorities.



07. We have heard the rival contentions and perused the orders of the learned lower authorities. First effective issue for our consideration in ground no.2, is regarding unexplained cash deposit at ₹19,64,500/-. Assessee was unable to explain the source of cash deposit in the bank account before the lower authorities. However, before us the learned counsel for the assessee has submitted that the assessee who is a retired State Government employee owned immovable property having 60% mere jointly with other co-owners. This property was sold to M/s Swarnabhumi Developers Limited for a consideration of ₹32 lac. Assessee's share in the said property is 60% of ₹32 lacs comes to ₹19.64 lac. It is submitted before us that the assessee's share of said consideration was received in cash in instalments, rather assessee had to pursue the recovery of sale proceeds and as and when the amounts was received, it was deposited in the bank account. Details have been filed before us, where sale proceeds in cash have been received during the period from 8th April, 2011 to 23rd March, 2012. We deem it appropriate to restore this issue to the file of the learned Assessing Officer who shall verify the veracity of the claim of the assessee along with examining the sale through which the immovable property has been sold for consideration of ₹32 lacs by the assessee along with his son to the transferee company namely M/s Swarnabhumi Developers Limited. If the learned Assessing Officer is satisfied that the sale consideration has been received in cash from the buyer, then the claim of the assessee explaining the source alleged cash deposit may be accepted

in accordance with the law. Thus, ground no.2 raised by the assessee is allowed for statistical purposes.

08. As regards to ground no.3, the issue in brief is that the assessee sold jointly owned immovable property at a consideration of ₹32 lacs. Stamp duty value of the said property is at ₹75,51,636/-. The difference of ₹41,53,036/- being the excess of stamp duty value over the sale consideration, the assessee has been subjected to the addition for his share at ₹30,64,460/-. Before us it claimed on behalf of the assessee that when the property was purchased in the year 2008, a circle rate was calculated at the rate of ₹3285 per decimal and some parts of the property was purchased at ₹11604.83 per decimal but the circle rate applied by the registrar for the purpose of calculating the stamp duty is ₹38136.55 per decimal. It is claimed that there has been an abnormal increase of 329% in the circle rate in one year five months and 1161% in just 2 years 11 months, whereas the cost inflation index has increased by 20% and 23% respectively. It is further claimed before us that considering this abnormal increase in the circle rate, a request was made before the learned CIT (A) that the matter needs to be referred to the District Valuation Officer (DVO) for assessing the fair market value.

09. Even though the learned Departmental Representative has opposed the request made by the learned Counsel for the assessee, however considering the facts of the case mainly the abnormal increase in the circle rate we find that the interest of justice would prevail in favour of both the parties if the matter is restored back to the file of the learned



Assessing Officer, who shall thereafter refer the matter to District Valuation Officer (DVO) for assessing the fair market value of the property in question sold by the assessee and on receiving the DVO's report the learned Assessing Officer after giving due opportunity to the assessee can decide the issue in accordance with the law. Assessee is also required to not to take adjournments unless otherwise require for reasonable cause. Thus, Ground no.3 is also allowed for statistical purposes.

010. Ground no.1 & 4 being general in nature and no specific submission made by the assessee, the same is dismissed.

011. Ground no.4 is general in nature which needs no adjudication.

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

Order pronounced in the open court on 29.08.2024.

Sd/-
(SONJOY SARMA)
(JUDICIAL MEMBER)

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

Kolkata, Dated: 29.08.2024

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata