

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN**

**Before Shri Satbeer Singh Godara, Judicial Member &
Shri Amarjit Singh, Accountant Member**

ITA No.669/Coch/2022
Assessment Year: 2018-19

Smt. Saramma Mathew 5235 Margaret's Place Brent Wood 370270 USA PAN :DOMPS1759R.	v.	The Deputy Commissioner of Income-tax (International Taxation) Kochi.
(Appellant)		(Respondent)

Appellant by:	Shri Rajakannan, Advocate
Respondent by:	Shri Sanjit Kumar Das, CIT-DR

Date of Hearing:	12.08.2024
Date of Pronouncement:	25.08.2024

ORDER

Per Bench :

This assessee's appeal for A.Y. 2018-19 arises against the DCIT, Circle International Taxation, Kochi's assessment in DIN & Order No. ITBA/AST/S/143(3)/2021-22/1042314936(1) dated 31.03.2022 in proceedings u/s. 143(3) r.w.s. 144(C) of the Income Tax Act, 1961 (the Act).

Heard both the parties. Case file perused.

2. It emerges at the outset that both the lower authorities have added the long terms capital gain amounting to Rs,128,67,944/- in assessee's hands, vide assessment herein dated 31.03.2022 framed as per the Dispute Resolution Panel "DRP" directions dated 08.02.2022. There is hardly any dispute between the parties that the sole substantial issue before us is that of

determination of cost of acquisition of the assessee's capital asset sold/transferred in the relevant previous year. Her case before us is that not only there was no reference made to the Valuation Officer u/s. 55A of the Act but also her Valuation Report filed in the course of the "objection proceedings" before the "DRP" has not been considered. The Revenue could hardly rebut the clinching fact that the learned lower authorities have not made any reference to the Valuation Officer u/s. 55A of the Act. Mr. Das sought to highlight the fact that there was no such claim or objection raised at the assessee's behest in the lower proceedings. The Revenue's technical objection already stands rejected in Sunil K. Aggarwal v. CIT [2015] 372 ITR 83 (Cal) wherein their lordships hold such a reference as mandatory even if there is no objection raised to this effect in assessment proceedings.

3. Learned CIT-DR seeks to distinguish the above case law that the same dealt with the issue of section 50C only whereas the addition before us is u/s. 55A of the Act.

4. This Revenue's technical objection is found to be devoid of merits once the legislature has itself not only adopted the "Valuation Officer" as per section 2(r) of the Wealth Tax Act, 1957, both in section 50C(2)(b) Explanation as well as section 55A(b) Explanation but also the statutory expression is found to be identically worded "may refer" (emphasis supplied).

5. We accordingly restore the assessee's instant sole substantive ground herein back to the Assessing Officer for his afresh appropriate adjudication as per law in very terms.

6. This assessee's appeal is allowed for statistical purposes.

Order pronounced in the open court on 25th September, 2024.

Sd/-
(Amarjit Singh)
Accountant Member

Sd/-
(Satbeer Singh Godara)
Judicial Member

Cochin ; Dated : 25th September, 2024.
np

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Concerned.
4. The CIT Concerned.
5. The DR, ITAT, Cochin.
6. Guard File.

Asst. Registrar/ITAT, Cochin