

आयकर अपीलिय अधिकरण  
दिल्ली पीठ "एसएमसी", दिल्ली  
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC", DELHI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं.2764/दिल्ली/2024 (नि.व. 2012-13)

ITA No.2764/DEL/2024 (A.Y.2012-13)

Laxmi Pati Sharma,  
L 16/2A, DLF Phase-2,  
Haryana 122022

PAN: AOSPS-5811-H

..... अपीलार्थी/Appellant

बनाम Vs.

Income Tax Officer,  
Aaykar Bhawan, A-2D, Sector-24,  
Gautam Budh Nagar, UP 201307

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : None  
प्रतिवादीद्वारा/ Respondent by : Ms. Shivani Bansal , Sr. DR  
सुनवाई की तिथि/ Date of hearing : 10/09/2024  
घोषणा की तिथि/ Date of pronouncement: : 29/11/2024

आदेश/ORDER

**PER VIKAS AWASTHY, JM:**

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as 'the CIT(A)') dated 18.12.2023, for assessment year 2012-13.

2. The assessee in appeal is against the addition of Rs.33,00,000/- on account of capital gains. The facts of the case as emanating from records in brief are: The Assessing Officer (AO) received AIR information regarding sale of immovable

property amounting to Rs.1,65,00,000/-. As per the records no return of income was filed by the assessee for AY 2012-13. The AO issued notice u/s. 148 of the Income Tax Act, 1961(hereinafter referred to as 'the Act') to the assessee on 29.03.2019 which was duly served through speed post. In compliance of the said notice no return of income was filed by the assessee. The Assessing Officer, thereafter, issued statutory notice u/s. 142(1) of the Act, however, the same remained unattended by the assessee. The AO was constrained to complete assessment u/s. 144 of the Act. In assessment proceedings, the AO observed that during the period relevant to assessment year under appeal, the assessee along with other two joint owners had sold the property for a total consideration of Rs.1,65,00,000/-. The assessee's 1/3<sup>rd</sup> share in the said sale consideration was Rs.55,00,000/-. The Assessing Officer estimated indexed cost of acquisition at Rs.22,00,000/- and made addition of Long Term Capital Gains Rs.33,00,000/-.

3. Against the assessment order, the assessee filed appeal before the CIT(A). None appeared to represent the assessee before the CIT(A), hence, the CIT(A) in ex-parte proceedings upheld the addition made by the AO. Now, the assessee is in second appeal before the Tribunal.

4. A perusal of the impugned order reveals that the assessee Laxmi Pati Sharma is stated to have died on 08.04.2019. The CIT(A) has mentioned the fact of death of Laxmi Pati Sharma from the statement filed in proceedings before the First Appellate Authority. It was further stated before the CIT(A) that notice u/s. 148 of the Act was received by legal heirs of Laxmi Pati Sharma on 31.12.2019. However, no documentary evidence was produced before the Authorities below

to substantiate the contention. The present appeal has been filed through legal Representative of Late Shri Laxmi Pati Sharma. Considering entire facts of the case, I deem it appropriate to grant an opportunity to the assessee to make submissions before the First Appellate Authority and to substantiate her contentions. The CIT(A) after affording reasonable opportunity of making submissions to the assessee shall pass a speaking order, in accordance with law.

5. The assessee/legal heirs of the assessee after service of notice shall appear before the CIT(A), without fail.

6. In the result, impugned order is set aside and appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Friday the 29<sup>th</sup> day of November, 2024.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 29/11/2024

NV/-

**प्रतिलिपि अग्रेषित Copy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI