

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'E' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA Nos.57 & 58/Del/2021
Assessment Year: 2009-10

Smt. Maya Devi, Vill. Masoorie, Pargana Dasna, Ghaziabad, Uttar Pradesh	Vs.	Income Tax Officer, Ward-1(4), Ghaziabad
PAN :DAZPM3121G		
(Appellant)		(Respondent)

Assessee by	None
Department by	Sh. B.S. Anand, Sr. DR

Date of hearing	25.11.2024
Date of pronouncement	02.12.2024

ORDER

PER SATBEER SINGH GODARA, JM

The assessee's twin appeals ITA Nos. 57 & 58/Del/2021, for AY 2009-10 are directed against order dated 26.09.2018 passed by CIT(A)-2, Noida and 31.01.2019 passed by CIT(A), Ghaziabad in case nos. 547551020301116/CIT(A)/GZB and 818567940220617, respectively, involving proceedings under sections 147/144 and 271(1)(c) of the Income Tax Act, 1961 (in short "the Act").

2. We straightway advert to the assessee's "quantum" appeal ITA No. 57/Del/2021 challenging both the lower authorities' action making long-term capital gain addition of Rs.61 lakhs after holding her to have sold/transferred the capital asset representing lands in question in the relevant previous year, for Rs.61 lakhs.

3. Learned senior DR vehemently submits that the impugned addition has been rightly made in assessee's hands on account of her non-cooperation throughout.

4. Faced with the situation; we invited Revenue's attention to both section 50C(2) of the Act as well as Sunil Kumar Agrawal vs. CIT (2015) 372 ITR 83 (Kolkata), wherein their lordships have held that reference to DVO is mandatory even if no such objection is raised from the taxpayer's side. We do not see any material in the case files indicating any such reference made by the Assessing Officer in the assessment findings wherein he has assessed the assessee for her share without even granting indexation benefit. We deem it appropriate in these facts and circumstances of the case to restore the assessee's sole substantive ground back to the Assessing Officer for his afresh appropriate decision after making section 50C reference to the DVO as per law. Ordered accordingly.

The assessee's instant quantum appeal ITA No. 57/Del/2021 is allowed for statistical purposes.

5. Same order to follow in assessee's penalty appeal ITA No. 58/Del/2021 being consequential in nature.

6. To sum up, these assessee's twin appeals ITA No. 57 & 58/Del/2021 are allowed for statistical purposes in above terms.

A copy of this common order be placed in respective case files.

Order pronounced in the open court on 2nd December, 2024

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 2nd December, 2024.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi