

IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
(VIRTUAL HEARING AT KOLKATA)

SHRI MANOMOHAN DAS, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 176/GTY/2024
Assessment Year: 2019-20

Devender Kumar Prashar,

A-102, Shivalik Near, Malviya Nagar,

Delhi - 110017

[PAN: AAAPP2199M]

.....**Appellant**

vs.

Assistant Director of Income Tax,

CPC, Bangaluru

Central Processing Centre,

Income Tax Department

..... **Respondent**

Appearances by:

Assessee represented by

: R.K. Sharma, Advocate

Department represented by

: Kaushik Ray, JCIT

Date of concluding the hearing

: 19.02.2025

Date of pronouncing the order

: 25.02.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. The present appeal arises from the order passed by the Ld. Commissioner of Income Tax (Appeals), Addl./JCIT(A)-1, Guwahati, dated 08.08.2024, passed under Section 250 of the Income Tax Act, 1961 (hereafter 'the Act').

1.1 In this case, the main grievance of the assessee is regarding the enhancement of capital gain from a disclosed figure of Rs. 6,41,972/- to an enhanced figure of Rs. 42,08,406/- under Section 143(1) of the Act.

1.2 Before the Ld. CIT(A) also, the assessee could not succeed on the basis of the following findings:

“6.1.6 The contention of appellant has been gone through. It is again reiterated at the cost of repetition that the action in the instant case against which appeal is file has been taken u/s. 143(1) which prescribes limited adjustment on the basis of details filled in by the assessee in the return of income. The impugned amount contended by the appellant is computed on the basis of amount mentioned by appellant in respective column. Therefore, aforesaid contention at the juncture of provisions of action 143(1) is not found correct. The said provisions of section 143(1) doesn't envisages to go into the details of verification of prevalent fair market value, the value so taken is also backed by Govt. circular and the report of other approved valuer by showing the said fair market value, the assessee disputed the circle rate value at this point etc. as contended by the appellant. The appellant has also contended about adopting of value as under:

The values adopted by the appellant is a fair market value on the basis of various valuation reports and the Govt. circulars and notification which runs as under:

*Total Sale Consideration Value per Sq Mtr. Total Area Sq Mtr. 44,50,000/-
18,936/-(per Sq. Mtr.) (Approx.) = 235.09*

The circle rate issued by authority on 03-07-2020 has been reduced to Rs. 10,125/-, whereas the appellant adopted the approximate of Rs. 18,936/- as fair market value which cannot be assessed u/s 143(1)(a) by rejecting the genuine claims.

6.1.7 The contention of appellant has been gone through. On verification of records, it is noticed that CPC, Bangalore has adopted figure in computation on the basis of details furnished and the specific requirement as mentioned in the respective column i.e 1a(i) to a(iii) of the Return of Income already reproduced above. Therefore the contention of appellant is not found correct and hence not acceptable. Also during the course of appellate proceedings nothing additional details other then what is stated in statement of facts/submission have been brought on records to suggest that the action of CPC, Bangalore is incorrect.”

2. Aggrieved with this action of Ld. CIT(A), the assessee has approached the ITAT with the following grounds:

“1. That the Ld. CIT (A) erred on facts and in law in sustaining the re-computation of capital gain by enhancing an income under section 143(1) of Income Tax Act for Rs. 42,08,406/- for AY 2019-20 in place of Rs. 6,41,972/-.

2. That the Ld. CIT (A) erred on facts and in law in sustaining the adjustment u/s 143(1) of the Act on account of capital gain for Rs. 42,08,406/- contrary to the scope of section 143(1) of Income Tax Act.

3. That the Ld. CIT (A) also erred on facts and in law and failed to appreciate the facts of the case

(a) That The Ld. CIT (A) has misread and misunderstood the provision of section 143(1) of the Act, in as much as, the section does not empower the A. A to take substantial decision in enhancing the income under the garb of adjustment u/s 143(1) of the Act. (b) That the Ld. CIT (A) failed to appreciate that the value adopted by the appellant is a fair market value on the basis of various valuation reports and the Govt, circulars and notification which runs as under: Total Sale

Consideration 44,50,000/- Value per Sq Mir. -18,936/-(per Sq. Mtr.) (Approx.) Total Area Sq Mtr.235.09 The circle rate issued by authority on 03-07-2020 has been reduced to Rs. 10,125/-, whereas the appellant adopted the approximate of Rs. 18,936/-as fair market value which cannot be assessed u/s 143(1)(a) by rejecting the genuine claims.

4. (c) That the Ld. CIT (A) further erred on facts and in law and failed to appreciate that in case of difference in fair market value and stamp duty value, the matter should have been referred for valuation u/s 50C sub-section (2) & (3) of the Income Tax Act to ascertain the value of the property for the purpose of capital gain. Whereas the A.A. has not followed the mandate of section 50C of Income Tax Act. That the appellant craves leave to amend and raise any other grounds of appeal at the time of hearing in the interest of justice.”

3. Before us, the Ld. AR vehemently argued that the processing mandated under Section 143(1) of the Act is limited in scope and cannot cover issues which are debatable. The Ld. AR took us through the facts of the case and stated that while the sale consideration was considerably below the value as per the circle rate (stamp duty valuation), it was argued that section 50C of the act provides for a mechanism to assess capital gains liability at a higher level than what is disclosed by any assessee in case the stamp duty valuation is higher than the actual sale consideration. He stated that in the same section of the Act, if the sale consideration is less than the stamp value then there is a provision for referring the same to a Valuation Officer. He stated that there was, therefore, scope for any assessee to legally claim capital gains at a lesser quantum than the prevailing stamp duty valuation. The Ld. AR relied on the provisions contained in section 50C of the Act to state that the same could not be used to enhance income under Section 143(1) of the Act.

2.2 The Ld. DR relied on the orders of authorities below.

3. We have carefully considered the documents before us and also gone through the provisions of section 143(1) and section 50C of the Act. It is evident that section 143(1) of the Act, in its present shape, is a self-contained code. The said section specifically mentions what all can be done within its purview. A parallel reading of section 50C of the Act reveals that it does not prescribe for an automatic enhancement of capital gain

the moment any sale consideration is less than the stamp duty valuation. It is seen that in section 50C of the Act there is a mechanism for escaping its rigours through a reference made to a Valuation Officer. A combined reading of the two sections reveals that section 50C of the Act cannot be mechanically applied at the stage of processing of return of income under Section 143(1) of the Act. To this extent, any adjustment under Section 50C of the Act is not possible at the stage of processing under Section 143(1) of the Act even if we analyse the situation from a different angle. We would see that while the Income Tax Department has an option to assess the capital gains at a higher quantum under Section 50C of the Act through proceedings like under Section 147 etc, the assessee on the other hand, will not have any recourse to remedy provided, of reference to a Valuation Officer, in the proviso to section 50C of the Act in case such enhancement is done under Section 143(1) of the Act. Thus, there is no hesitation in holding that adjustment under Section 50C of the Act is not possible within the provisions of section 143(1) of the Act. Accordingly, the enhancement so made by the Ld. AO, CPC is directed to be deleted.

4. In the result, the appeal of the assessee is allowed.

Order pronounced in the court on 25.02.2025

Sd/-
[Manomohan Das]
Judicial Member

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 25.02.2025
AK, PS

Copy of the order forwarded to:

1. Devender Kumar Prashar
2. Assistant Director of Income Tax, CPC, Bangaluru
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches