

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

Before Shri Duvvuru RL Reddy, Vice-President (KZ)

**I.T.A. No. 310/KOL/2025
Assessment Year: 2017-2018**

***Jaswant Singh,.....Appellant
32/1A, Chakraberia Road South,
Bhowanipore, Kolkata-700025, W.B.
[PAN:ADNPS0407P]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-29(2), Kolkata,
Aayakar Bhawan (Dakshin),
2, Gariahat Road,
Kolkata-700031***

Appearances by:

*Shri Sanjay Bhattacharya, FCA, appeared on behalf of the
assessee*

*Shri L.N. Dash, Addl. CIT (D.R.), appeared on behalf of
the Revenue*

**Date of concluding the hearing: May 08, 2025
Date of pronouncing the order: July 22, 2025**

O R D E R

The present appeal is directed at the instance of assessee against the order of Id. Additional/ Joint Commissioner of Income Tax (Appeals)-1, Noida dated 17.12.2024 passed for Assessment Year 2017-2018.

2. Facts in brief are that the assessee is an individual, who filed his return of income on 25.03.2018 declaring total income at Rs.2,93,670/-. The case was selected for Limited Scrutiny under CASS with reason "Capital Gains/Loss on sale of property". Accordingly, notices under sections 143(2) and 142(1) were issued on 23.08.2018 and 28.11.2019 respectively via e-proceeding. In response to the notices, the assessee produced copy of deed of land and other deeds of nearby area. No written submission or explained was made. From the record, it was observed that the assessee's land was acquired in respect of extension of National Highway by the Government and compensation was given to the assessee to the tune of Rs.20,10,877/- (Rs.18,65,189/- for the building and Rs.1,45,688/- for the land). From the documents, it was seen that the land was purchased on 04.10.2001 at Rs.4,99,584/- and stamp duty was paid at Rs.85,260/- for the registration. Assessee's share is one-fourth of the property. Hence, assessee's part of contribution comes to Rs.1,46,211/- for the calculation of capital gain. No details regarding the buildings, construction etc. was produced by the assessee. The ld. Assessing Officer computed the capital gain of the assessee at Rs.16,43,261/- and added to the total income of the assessee which comes to Rs.19,36,931/-. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals).

3. The ld. CIT(Appeals) dismissed the appeal of the assessee by mentioning that the assessee was provided opportunities to furnish his submission but he has failed to avail any of these so far and since there is no solid evidence from the side of the

assessee, there is no choice but to confirm the addition made by the ld. Assessing Officer and dismissed the appeal of the assessee.

4. On being aggrieved, the assessee preferred an appeal before the ITAT.

5. At the outset, it was the submission of the ld. Counsel for the assessee that the ld. Addl./CIT(Appeals) has not provided sufficient opportunities to file the documents relating to compensation received by the assessee against compulsory acquisition of land by National Highways Authority of India. The assessee is entitled to claim exemption of the said compensation/income but the ld. Assessing Officer and ld. Addl./CIT(Appeals) without examining the basic facts passed the assessment order and appellate order respectively. He further submitted that the assessee obtained all the certificates from the revenue authorities and submitted before the Tribunal by way of paper book. Therefore, he pleaded to set aside the matter back to the file of ld. Assessing Officer to examine the documents issued by the revenue authorities regarding the exemption of compensation/income.

6. On the other hand, ld. Departmental representative submitted that the ld. Addl./CIT(Appeals) has given sufficient opportunities to the assessee, but he has not filed any evidence before the ld. Assessing Officer as well as ld. Addl./CIT(Appeals). Therefore, the ld. Addl./CIT(Appeals) dismissed the appeal filed by

the assessee and he pleaded to uphold the orders passed by the revenue authorities.

7. I have heard both the sides and perused the material available on record. The order of Id. Addl./CIT(Appeals) at para 4.3 in page 3 reads as under:-

“The appellant was provided further opportunities to provide his submission. However, he has failed to avail any of these so far. The requisite documents and submissions have not been received from the side of the appellant yet. In lack of them, the matter cannot be decided in favour of any party. It is worth noting that filing an appeal is not merely a formality but the appellant needs to actively pursue it”.

Therefore, considering the above finding of the Id. Addl./CIT(Appeals), I am of the view that it is a fit case to set aside the orders passed by the revenue authorities since the assessee has filed paper book before the Tribunal as additional evidence. Therefore, I set aside the order passed by the Id. Addl./CIT(Appeals) and remit the matter back to the file of Id. Assessing Officer to examine the documents filed by the assessee by way of paper book before the Tribunal and pass an appropriate order after providing one more opportunity of being heard to the assessee. At the same breath, I also hereby caution the assessee to promptly co-operate with the proceedings before the Ld. Assessing Officer failing which the Ld. Assessing Officer shall be at liberty to pass appropriate order in accordance with law and merits of the case, based on the materials available on the record. Thus, the grounds raised by the assessee in the appeal are allowed for statistical purposes.

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

Order pronounced in the open Court on 22/07/2025.

Sd/-
(Duvvuru RL Reddy)
Vice-President (KZ)

Kolkata, the 22nd day of July, 2025

*Copies to :(1) Jaswant Singh,
32/1A, Chakraberia Road South,
Bhowanipore, Kolkata-700025, W.B.*

*(2) Income Tax Officer,
Ward-29(2), Kolkata,
Aayakar Bhawan (Dakshin),
2, Gariahat Road, Kolkata-700031*

*(3) Addl./JCIT(A)-1, Noida;
(4) CIT - , Kolkata;
(5) The Departmental Representative;
(6) Guard File*

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By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.