

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'ए' बेंच, हैदराबाद

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad**

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य

**SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.479/Hyd/2025
(निर्धारण वर्ष/ **Assessment Year : 2016-17**)

Anitha Myadam Hyderabad PAN : AUBPM8040K (अपीलार्थी/ Appellant)	Vs.	Income Tax Officer Ward-7(1) Hyderabad (प्रत्यर्थी/ Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri A.Srinivas, CA, AR
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri Gurpreet Singh, DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	04.09.2025
घोषणा की तारीख/Date of Pronouncement	:	12.09.2025

ORDER

प्रति रवीश सूद, जे.एम./PER RAVISH SOOD, J.M.

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals) ["CIT(A)"] National Faceless Appeal Centre ("NFAC"), Delhi dated 17.01.2025, which in turn arises from the order passed by the AO u/s 147 r.w.s. 144 read with section 144B of the Income Tax Act, 1961 ("the Act") dated 17.03.2022 for the A.Y.2016-17.

2. The assessee has assailed the impugned order on the following grounds of appeal before us:

1. The order of the Appellate Commissioner is contrary to law, facts and circumstances of the case.
2. The Appellate Commissioner ought to have appreciated the fact that the appellant was merely a consenting party to the sale deed as mentioned in the sale deed and not the owner of the immovable property.
3. The Appellate Commissioner erred in considering sale deed as additional evidence where in fact, the same was not additional evidence since, it was available with the assessing officer, based on which the addition was made.
4. The Appellate Commissioner erred in considering the information submitted during the appellate proceedings as additional evidence under Rule 46A of the Income Tax Rules 1962.
5. The Appellate Commissioner erred in confirming the addition of Rs. 53,57,921/- by dismissing without considering the submissions where the requirement of additional evidence under Rule 46A of the Income Tax Rules 1962 does not arise.
6. Any other grounds which the Assessee may urge either before or at the time of the hearing.

3. Succinctly stated, the A.O., based on information that the assessee during the subject year had sold an immovable property for a consideration of Rs. 53,57,921/-, but had not disclosed the long term capital gain (“LTCG”) arising on such sale transaction in her return of income, initiated proceedings under Section 147 of the Act. Notice u/s 148 of the Act dated 31.03.2021 was served upon the assessee.

4. As the assessee neither complied with the notice issued u/s 148 of the Act dated 31.03.2021 and filed her return of income nor complied with the notices issued u/s 142(1) of the Act dated 25.11.2021, 18.01.2022 and 01.02.2022, therefore, the AO issued notice u/s 148 of the Act on 19.02.2022, which too was not complied with by the assessee. Accordingly, the AO was constrained to frame the assessment to the best of his judgment u/s 144 of the Act.

5. As is discernible from the record, the AO observed that the assessee had during the subject year executed a sale deed No.2036/2015 dated 08.05.2015, but had not disclosed any consequential LTCG on the said sale transaction in her return of

income. Accordingly, the AO held the amount of Rs. 53,57,921/- (supra) as LTCG in the hands of the assessee.

6. Aggrieved, the assessee carried the matter in appeal before the CIT(A), but without success. Although, it was, inter-alia, the claim of the assessee that her name was mentioned in the sale deed, only as a consenting party, i.e. as a legal heir of one of the owners of the land to avoid any future litigations, but the AO losing sight of the said material fact, had wrongly assessed LTCG of 53,57,921/- in her hands. However, the CIT(A) did not find favour with the aforesaid claim of the assessee. Also, the CIT(A) observed that the assessee at Column 12 of her memorandum of appeal in “Form 35” had stated that certain fresh additional evidence was filed under Rule 46A. The CIT(A) observed that as the assessee had failed to substantiate as to why the additional evidence was not filed before the AO, observed that there was no justification for her to produce the same before him. Accordingly, the CIT(A), after refraining from admitting the additional evidence for the reason that the assessee had failed to satisfy the conditions contemplated

under Rule 46A, approved the addition of Rs. 53,57,921/- made by the AO and dismissed the appeal.

8. The assessee, being aggrieved with the order of the CIT(A) has carried the matter in appeal before us.

9. We have heard the Ld. Authorized representatives of both parties, perused the orders of the lower authorities and the material available on record. Shri A. Srinivas, CA, the learned Authorized Representative (for short, "Ld.AR") for the assessee, at the threshold of the hearing of the appeal, took us through the copy of the sale deed dated 08.05.2015, Page Nos. 8 to 50 of the APB. The Ld.AR submitted that the sale deed referred to the transfer of property, viz., part and parcel of the open land in Survey No.224, within the Municipal limits of GHMC, Ward No.9 situated at Ibrahimbagh (V), Golconda (M), Hyderabad, that was acquired by virtue of a registered partition deed, vide document No.5678 of 2013, Book-1 dated 31.12.2012, registered in the office of the Joint Sub-Registrar-6, Golconda, Hyderabad. Elaborating further on his contention, the Ld.AR submitted that the assessee/appellant in the present case, viz., Smt.Anitha Myadam, D/o Late T. Yadava

Rao, whose name figured at Sl.16 in the sale deed, is one of the legal heir of the vendors mentioned at Sl. 1 to 12 of the sale deed. The Ld.AR to buttress his aforesaid claim had drawn our attention to Page No.9 of APB, which substantiated his contention that the assessee, viz., Smt. Anitha Bai, inter-alia, was one of the legal heirs of the vendors mentioned at Sl.1 to 12. Carrying his contention further, the Ld.AR submitted that the name of the assessee, viz., Smt. Anitha Bai (supra) along with those of the remaining legal heirs (Sl.13 to 21) was mentioned in the sale deed only with the purpose to avoid any future litigation, complications, and to give a perfect marketable title to the subject property. It was thus, the Ld. AR's claim that as the assessee was only a consenting party in the subject sale deed, therefore, she could not have been saddled with any tax liability on the transfer of the subject property. The Ld.AR to buttress his aforesaid claim submitted that the entire amount of capital gain and the consequential tax liability on the transfer of the subject property had been assessed in the hands of the vendors, i.e., the owners of the property, whose names are mentioned at Sl.1 to 12 of the sale deed. The Ld.AR submitted that

the matter may be restored to the file of the AO to verify the aforesaid factual position so that the income on the transfer of the subject property may be brought to tax in the hands of the right person and the right person alone.

10. Per contra, the learned Departmental Representative (for short "Ld. DR") relied upon the orders of the lower authorities. The Ld. DR submitted that as the name of the assessee was mentioned at Sl.16 as one of the "Vendors", therefore, there was no infirmity in the view taken by the AO, who had rightly brought the capital gains arising on the transfer of the subject property falling to her share to tax in her hands.

11. We have thoughtfully considered the contentions of the Ld. Authorized Representatives of both parties in the backdrop of the orders of the lower authorities and the material available on record.

12. As observed herein above, it is the Ld. AR's claim that, though the name of the assessee, viz., Smt. Anitha Bai appears at Sl.16 of the parties mentioned in the sale deed as "Vendors", but her name was mentioned only in her capacity as that of a legal heir

of the owners of the property at Sl.No.1 to 12. The Ld.AR submitted that the purpose of making the persons at Sl.13 to 21 as parties to the sale deed dated 08.05.2015 was to avoid any future litigation/complications and to give a perfect marketable title to the subject property. We find that the aforesaid claim of the assessee that the parties mentioned at Sl.1 to 12 were the “owners” of the property is, *prima facie*, supported by the fact that, as per the sale deed, the entire amount of sale consideration had been received only by the parties mentioned at Sl.1 to 12.

13. We, thus, find substance in the Ld. AR’s claim that the names of the parties at Sl.13 to 21 (including that of the assessee) had been entered in the sale deed only for the purpose of avoiding future litigation/disputes, and to give a perfect marketable title to the subject property. At the same time, we are of the view that the aforesaid claim of the assessee cannot be summarily accepted on the very face of it and would require necessary verification. As the subject property is stated to have been acquired by the vendors mentioned at Sl.No.1 to 12 (stated to be the owners) by virtue of a registered partition deed, vide document 5678 of 2013, Book-1,

dated 31.12.2013, registered in the office of the Joint Sub-Registrar-6, Golconda, Hyderabad, therefore, the claim of the Ld. AR that the entire property was exclusively owned by the parties mentioned at Sl.1 to 12 can be verified by looking into the aforesaid registered partition deed dated 31.12.2013 (supra). Apart from that, we are of the view that if the parties mentioned at Sl.1 to 12 are the absolute and exclusive owners of the subject property, then the entire amount of the capital gain on the transfer of the said property would have been assessed in their respective hands. We, thus, in terms of our aforesaid observations, direct the AO to carry out the necessary verification. In case the claim of the assessee is found to be in order, and the name of the assessee., viz., Smt. Anitha Bai is found to have been entered in the sale deed only for the purpose of avoiding any future litigation/disputes and to give a perfect marketable title to the subject property, then, no part of the capital gain arising on the transfer of the said property under consideration would be liable to be brought to tax in her hands. We say so, for the reason that, as held by the Hon'ble Supreme Court in the case of ITO vs. Ch. Atchiaiah (1966) 218 ITR 239 (SC),

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the income has to be brought to tax in the hands of the right person and the right person alone. Accordingly, we are of the view that if it is established beyond doubt that the parties at Sl.1 to 12 are the actual owners of the subject property, then, there can be no justification for subjecting the assessee., viz., Smt. Anitha Bai to on qua the transfer of the said property.

14. Resultantly, the appeal filed by the assessee is allowed for statistical purposes in terms of our aforesaid observations.

12 सितम्बर, 2025 को खुली अदालत में सुनाया गया आदेश।

Order pronounced in the Open Court on 12th September, 2025.

<p>Sd/- (मधुसूदन सावडिया) (MADHUSUDAN SAWDIA) लेखा सदस्य/ACCOUNTANT MEMBER</p>	<p>Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER</p>
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Hyderabad, dated 12.09.2025.

****L.Rama /SPS**

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आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Smt.Anitha Myadam, H.No.14-11-887, Beerbhanbagh, Nayabasthi, Begum Bazar, Hyderabad
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Ward-7(1), Signature Towers, Sy.No.6(P), Kondapur, Hyderabad
3.	The Principal Commissioner of Income Tax, Hyderabad		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad