

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER  
AND  
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 95/RPR/2023  
निर्धारण वर्ष / Assessment Year : 2015-16

The Deputy Commissioner of Income Tax-1(1),  
Bhilai (C.G.)

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Nitin Gupta  
55, Motilal Nehru Nagar,  
Bhilai (C.G.)-490 006  
PAN : AHLPG5270A

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B Doshi, CA  
Revenue by : Shri Satya Prakash Sharma, Sr. DR

सुनवाई की तारीख / Date of Hearing : 05.09.2023

घोषणा की तारीख / Date of Pronouncement : 07.09.2023

**आदेश / ORDER****PER RAVISH SOOD, JM:**

The present appeal filed by the revenue is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 30.01.2023, which in turn arises from the order passed by the AO under Sec. 143(3)/154 of the Income-tax Act, 1961 (in short 'the Act') dated 27.08.2021 for assessment year 2015-16. The revenue has assailed the impugned order on the following grounds of appeal before us:

“1. Whether on the facts and circumstances of the case, the Id. CIT(A) was justified in deleting the addition made by the A.O at Rs.12,99,500/- invoking the provision of section 50C of the I.T Act?

2. Any other ground which may be adduced at the time of hearing.”

2. Succinctly stated the assessee had filed his return of income for A.Y.2015-16 on 22.08.2015, declaring an income of Rs.82,84,786/-. Original assessment was framed by the A.O vide his order passed u/s.143(3) of the Act dated 11.12.2017 determining the assessee's total income at Rs.82,84,786/-.

3. After culmination of the assessment proceedings, it was observed by the A.O that a mistake had crept in his order passed u/s.143(3) of the Act

dated 11.12.2017, wherein the Long Term Capital Gain (LTCG) that was disclosed by the assessee on the sale of agricultural land at Iskcon, Raipur on 15.04.2014 by adopting sale consideration of Rs.66 lacs as against Fair Market value (FMV) of Rs.78,97,500/- (as was discernible from sale deed), though not in conformity with the provisions of Section 50C of the Act was summarily accepted by him while framing the assessment. Accordingly, the A.O issued notice u/s.154 of the Act on 12.06.2020 to the assessee and called upon him to put forth an explanation as to why the aforesaid mistake may not be rectified.

4. As the assessee had failed to come forth with any reply, therefore, the A.O vide his order passed u/s.154 of the Act dated 27.08.2021 rectified the assessment order by recasting/reworking out the LTCG on sale of agricultural land situated at Iskcon, Raipur by substituting the sale consideration by an amount of Rs.78,99,500/-, i.e. FMV as against actual sale consideration. On the basis of the aforesaid working, the A.O revised the assessed income of the assessee at Rs.95,84,286/-.

5. Aggrieved the assessee carried the matter in appeal before the CIT(Appeals). Observing, that the assessee on the basis of “agreement to sell” had received entire amount of sale consideration in March, 2014, the CIT(Appeals) was of the view that the “1<sup>st</sup> proviso” to Section 50C(1) of the

Act would get triggered for computing the amount of LTCG in the hands of the assessee. Accordingly, the CIT(Appeals) on the basis of his aforesaid observations partly allowed the appeal of the assessee. For the sake of clarity, the observations of the CIT(Appeals) are culled out as under:

“6.1.1 I find that the AO did not pass the order u/s 154 haste since the period between two notices dated 19.06.2010 and 23.08.2021 were more than one year apart. Further, the issues raised u/s 154 were having merits and unless special circumstances (prior agreement of sale) existed and pointed out, no error in order u/s 154 passed by the AO can be stated. However, the additional evidence were admitted in the interest of natural justice and in view of the claim that intermittent lockdowns affected the normal functioning of the appellant. Hence, ground No 1 & 2 raised by the appellant are dismissed.

6.2 As regards ground No 3 of the appeal, the appellant submitted that the copy of the agreement to sale which coupled with the facts that entire sale consideration was received within March, 2014 lends credence to the claim of the appellant. It is also seen that as per assessment order, AO had verified the deduction claimed u/s 54 of the Act with indexation, purchase and sale cost.

6.2.1 The provision of section 50C (1) first proviso are applicable in the instant case and since the appellant had entered into agreement on 06.03.2014 and received consideration by cheque before 31.03.2014. Accordingly, the ground No 3 of the appeal is allowed.

7. In the result, the appeal is partly allowed.”

6. The revenue being aggrieved with the order of the CIT(Appeals) has carried the matter in appeal before us.

7. We have heard the Id. Authorized Representatives of both the parties, perused the orders of the lower authorities as well as material available on record.

8. Controversy involved in the present appeal lies in a narrow compass, i.e. sustainability of the order passed by the CIT(Appeals), NFAC, Delhi wherein by referring to the "1<sup>st</sup> proviso" to Section 50C(1) of the Act, he had observed that as the assessee had entered into an "agreement to sell" dated 06.03.2014 and received entire amount of sale consideration of Rs.66 lacs by cheque before 31.03.2014, therefore, FMV of the agricultural land sold by him was to be determined on the basis of guidelines rate notified for financial year 2013-14 and not those pertaining to financial year 2014-15 i.e. the year in which registered sale deed was executed by him.

9. Shorn of unnecessary details, the assessee had sold agricultural land situated at Iskcon, Raipur for a consideration of Rs.66 lacs. On a perusal of the "agreement to sell" dated 06.03.2014, Page 15 of APB, it transpires that the assessee had received part of the sale consideration of Rs. 20 lacs vide cheque No.041586 drawn on Union Bank of India, Raipur dated 06.03.2014. Also, as is discernible from the copy of sale deed dated 05.04.2014, the balance amount of sale consideration of Rs.46 lacs (out of Rs.66 lacs) was received by the assessee in the preceding year i.e. F.Y.2013-14. For the sake of clarity, complete details of sale consideration received by the assessee is culled out as under:

| S. No | Cheque No. | Date       | Amount      |
|-------|------------|------------|-------------|
| 1.    | 045186     | 06.03.2014 | 20,00,000/- |
| 2.    | 045192     | 11.03.2014 | 6,00,000/-  |
| 3.    | 045195     | 21.03.2014 | 20,00,000/- |
| 4.    | 039579     | 29.03.2014 | 20,00,000/- |
|       |            | Total      | 66,00,000/- |

10. On a perusal of the order of the CIT(Appeals), it transpires that he had in the course of proceedings called for a “remand report” from the A.O vide letter dated 30.12.2022. In reply, the A.O had, inter alia, stated that though the copy of sale deed was available on record but the “agreement to sell” was not lying in the record. At this stage, we may herein observe that the A.O had in the course of remand proceedings not raised any doubt as regards the genuineness of the “agreement to sell” dated 06.03.2014. Considering the aforesaid facts, we may herein observe that as per the “1<sup>st</sup> proviso” to Section 50C(1) of the Act as had been made available vide the Finance Act, 2016 w.e.f.01.04.2017, where the date of agreement fixing the amount of consideration and the date of registration for the transfer of the capital asset are not the same then the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purpose of computing full value of consideration for such

transfer. For the sake of clarity, the “1<sup>st</sup> proviso” to Section 50C(1) is culled out as under:

“Provided that where the date of agreement fixing the amount of consideration and the date of registration for the transfer of the capital asset are not the same, the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purpose of computing full value of consideration for such transfer”.

Ostensibly, as neither the “agreement to sell” dated 06.03.2014; nor the contents thereof had been doubted by the A.O in the course of the remand proceedings, therefore, as observed by the CIT(Appeals), and rightly so, the value assessable by the stamp valuation authority on the date of the “agreement to sell” i.e. 06.03.2014 was to be taken for computing full value of consideration for such transfer u/s. 50C of the Act. Accordingly, finding no infirmity in the view taken by the CIT(Appeals) who in our considered view had rightly triggered the “1<sup>st</sup> proviso” to Section 50C(1) of the Act, we uphold the same. Resultantly, concurring with the view taken by the CIT(Appeals), we uphold his order.

11. In the result, appeal of the revenue is dismissed in terms of our aforesaid observations.

Order pronounced in open court on 07<sup>th</sup> day of September, 2023.

**Sd/-**  
**ARUN KHODPIA**  
**(ACCOUNTANT MEMBER)**

**Sd/-**  
**RAVISH SOOD**  
**(JUDICIAL MEMBER)**

रायपुर/ RAIPUR ; दिनांक / Dated : 07<sup>th</sup> September, 2023

SB

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. The Pr. CIT, Raipur-1 (C.G)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,  
रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

**// True Copy //**

निजी सचिव / Private Secretary  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.