

IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, CHANDIGARH

PHYSICAL HEARING

**BEFORE HON'BLE SHRI RAJPAL YADAV, VICE PRESIDENT
AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं./ ITA No.535/CHANDI/2023
(निर्धारणवर्ष / Assessment Year: 2014-15)**

Shri Sukh Pal Singh Sheela Niwas, Chalaunti Sanjauli, HP 171006.	बनाम/ Vs.	ITO Ward No-2 Shimla.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AYMPS-5057-K		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Raj Kumar Aggarwal (CA) – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Dr Ranjit Kaur (Addl. CIT) – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	08-07-2025
घोषणाकीतारीख / Date of Pronouncement	:	15-07-2025

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2014-15 arises out of an order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 28-06-2023 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) r.w.s. 147 of the Act on 22-11-2018. The sole grievance of the assessee is assessment of Long Term

Capital Gains for Rs.104.27 Lacs. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

2. It emerges that the assessee sold commercial land situated at Village Mehrauli, Pargana Dasna, Ghaziabad for Rs.101.03 Lacs as against its stamp duty valuation of Rs.105.60 Lacs. Since the land was acquired prior to 01-04-1981, the assessee adopted cost of acquisition on the basis of valuation report of registered valuer wherein the market rate of the property was taken at Rs.980/- per Sq. Meter. The valuation was stated to be arrived on the basis of local market survey. However, Ld. AO rejected the same and adopted notified rate of Rs.20/- per square meter and reworked the cost of acquisition. Applying the provisions of Sec.50C, the stamp duty value of Rs.105.60 Lacs was adopted and net LTCG was worked out to be Rs.104.27 Lacs. The assessee claimed deduction u/s 54F and in support thereof, furnished bank statement and valuation report. However, finding discrepancies in the narration of bank entries, the said claim was rejected. The Ld. CIT(A) confirmed the assessment for want of any representation from the assessee against which the assessee is in further appeal before us.

3. We find that the extant statutory provisions as applicable to AY 2014-15 mandate adoption of *fair market value* as on 01-04-1981 and not the adoption of stamp duty / registered value while computing cost of acquisition as on 01-04-1981. The assessee has adopted valuation of Rs.980/- per square meter which is duly supported by the valuation report of a registered valuer. The Ld. AO has not referred the valuation to DVO in accordance with the provisions of Sec.55A of the Act. On

these facts, the cost of acquisition as adopted by the assessee could not be faulted with. The Ld. AO is directed to adopt cost of acquisition as adopted by the assessee on the basis of valuation report.

4. So far as the deduction u/s 54F is concerned, the assessee is stated to have made investment of Rs.30.15 Lacs which are sourced out of cash withdrawals from three bank accounts. The perusal of written submissions of Ld. AR would show that the assessee has withdrawn cash of Rs.37.06 Lacs during the year and discrepancies have been noted only in few of the entries which aggregate to Rs.9.16 Lacs (Para 5.2 of assessment order). The remaining withdrawals are for Rs.27.90 Lacs which have not been doubted. The investment is supported by valuation report. Therefore, the claim to the extent of Rs.27.90 Lacs could be accepted. We order so. The Ld. AO is directed to re-compute the income of the assessee accordingly.

5. The Ld. AR has taken additional grounds to plead that notice issued u/s 143(2) was invalid and void-ab-initio. However, we find that the assessee was a non-filer. When the case was reopened and notice u/s 148 was issued, the assessee did not file return of income within stipulated timeline of 30 days which is in violation of the decision of Hon'ble Apex Court in the case of **GKN Driveshafts (India) Ltd. vs. ITO (259 ITR 19)**. Considering the conduct of the assessee, this plea is rejected. No other ground has been pleaded in the appeal.

6. The appeal stands partly allowed in terms of our above order.

Order pronounced on 15-07-2025.

Sd/-

(RAJPAL YADAV)
VICE PRESIDENT

Sd/-

(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated: 15-07-2025.

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH