

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2807/Mds/2016

निर्धारण वर्ष / Assessment Year : 2007-08

The Income Tax Officer,
Non Corporate Ward 17(4),
Chennai - 600 034.

v. Shri A.P. Rajmohan,
No.48/83, Pudupet Street,
Alandur, Chennai - 600 016.

(अपीलार्थी/Appellant)

PAN: AJJPR 0649 A

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.2808/Mds/2016

निर्धारण वर्ष / Assessment Year : 2007-08

The Income Tax Officer,
Non Corporate Ward 17(2),
Chennai - 600 034.

v. Shri A.P. Madanmohan,
No.48/83, Pudupet Street,
Alandur, Chennai - 600 016.

PAN: AGZPM 4775 H

अपीलार्थी की ओर से/Appellant by : Shri A.V. Sreekanth, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri P. Rajasekharan, CA

सुनवाई की तारीख/Date of Hearing : 13.03.2017

घोषणा की तारीख/Date of Pronouncement : 07.04.2017

आदेश / O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

These appeals of the Revenue are directed against the
respective orders of the Commissioner of Income Tax (Appeals)-5,

Chennai, dated 27.07.2016 and pertain to assessment year 2007-08.

2. The only issue arises for consideration in these appeals is deduction claimed by the assesseees under Section 54F of the Income-tax Act, 1961 (in short 'the Act').

3. We have heard Shri A.V. Sreekanth, the Ld. Departmental Representative and Shri P. Rajasekharan, the Ld. representative for the assesseees. The CIT(Appeals) allowed the claim of the assesseees by placing reliance on the judgment of Madras High Court in CIT v. Smt. V.R. Karpagam in Tax Case (Appeal) No.301 of 2014. The CIT(Appeals) has also placed reliance in the assesseees' own case allowed by this Tribunal.

4. This is second round of litigation before this Tribunal. In the first round of litigation, this Tribunal in I.T.A. No. 1493/Mds/2013 & 1495/Mds/2013 dated 15.05.2015, found that in view of judgment of Madras High Court in V.R. Karpagam (supra), assesseees are eligible for exemption even though multiple flats were allotted to them in lieu of cost of 60% of the land. This Tribunal has observed at para 12 on pages 12 and 13 as follows:-

“12. Now coming to the issue of exemption under Section 54F of the Act, the assessee entrusted the construction of the building to the builder in lieu of 60% of the landed area transferred to the builder. Therefore, the assessee, from the date on which the transfer was made by entering into agreement for joint development, are in the process of constructing the residential house. Therefore, this Tribunal is of the considered opinion that the assessee are entitled for exemption under Section 54F of the Act. Now the objection of the Department is that the assessee got multiple flats, almost eight flats each, in lieu of the land transferred to the builder. The question arises for consideration is when the assessee received eight flats/residential units from the builder in lieu of cost of the land transferred to the builder, whether the assessee are entitled for exemption under Section 54F of the Act? We have gone through the judgment of Madras High Court in V.R. Karpagam (supra). In this case, the assessee obtained five independent flats in a multi-storied construction and claimed exemption as independent unit under Section 54F of the Act. The Madras High Court, after referring to the amendment made with effect from 1.4.2015, found that the assessee is eligible for exemption under Section 54F of the Act. In view of the judgment of the Madras High Court, this Tribunal is of the considered opinion that the assessee are eligible for exemption even though multiple flats were allotted to them in lieu of cost of 60% of the land allotted to the builder.”

5. In view of the above, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

6. In the result, both the appeals filed by the Revenue are dismissed.

Order pronounced on 7th April, 2017 at Chennai.

sd/-

(डि.एस. सुन्दर सिंह)
(D.S. Sunder Singh)
लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 7th April, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondents
3. आयकर आयुक्त (अपील)/CIT(A)-5, Chennai-34
4. Principal CIT-9, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.