

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.1245/Mds/2016

निर्धारण वर्ष / Assessment Year : 2009-10

Shri Prashanth Krishna Singh,
New No.11, Kasturi Estate,
2nd Street, Poes Garden Road,
Chennai - 600 086.

v. The Income Tax Officer,
Non-Corporate Ward 3(2),
Chennai - 600 006.

PAN : BFFPS 3337 P

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Sh. R. Vijayaraghavan, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri A.V. Sreekanth, JCIT

सुनवाई की तारीख/Date of Hearing : 25.07.2016

घोषणा की तारीख/Date of Pronouncement : 15.09.2016

आदेश /O R D E R

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

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -4, dated 16.02.2016 and pertains to assessment year 2009-10.

2. Sh. R. Vijayaraghavan, the Ld.counsel for the assessee, submitted that the assessee's mother Smt. Lavanya Kumari owned

a residential property at Old No.6, Kasturi Estate II Street, Chennai. On 13.07.2007, Smt. Lavanya Kumari executed a settlement deed in favour of her two sons, including the assessee before this Tribunal. According to the Ld.counsel, the assessee subsequently sold the said property on 19.09.2008 jointly, along his brother, for a total sum of ₹1,25,00,000/-. However, for the purpose of stamp duty, the assessee has adopted only ₹1,80,20,000/-. The Assessing Officer for the purpose of computing capital gain, adopted the value adopted by Sub-Registrar for registration of document under Section 50C of the Income-tax Act, 1961 (in short 'the Act').

3. The Ld.counsel for the assessee submitted that the approved valuer, after considering the location of property and the imperfections of the plot, estimated the value of land at ₹1,19,00,000/- and opined that the rate of ₹1,20,00,000/- could be accepted. However, the Departmental Valuation Officer estimated the market value at ₹1,53,16,000/-. According to the Ld. counsel, the approved valuer estimated the sale consideration only at ₹62,50,000/-. The CIT(Appeals) without taking into consideration the location of property, simply adopted the Departmental Valuation

Officer's report. According to the Ld. counsel, the Departmental Valuation Officer has not taken into consideration the objection raised by the assessee, therefore, the CIT(Appeals) is not justified in adopting the value determined by the Departmental Valuation Officer.

4. On the contrary, Shri A.V. Sreekanth, the Ld. Departmental Representative, submitted that the Departmental Valuation Officer has taken into consideration all the objections raised by the assessee, including the valuation report filed by the approved valuer. According to the Ld. D.R., the dispute is with regard to determination of sale consideration under Section 50C of the Act for the purpose of computing the capital gain. The CIT(Appeals), by placing reliance on the valuation made by the Departmental Valuation Officer, adopted the value of the property at ₹1,53,15,300/-. The assessee being one of the co-owners, along with his brother, the sale consideration was taken at ₹76,58,000/-. According to the Ld. D.R., the other co-owner appears to have not challenged the order of the CIT(Appeals) or the Assessing Officer. In fact, the other co-owner accepted the valuation made by the Departmental Valuation Officer. Therefore, according to the Ld.

D.R., the CIT(Appeals) has rightly taken the value of the land at ₹1,53,15,300/- and the assessee being a co-owner having 50% share, it was taken as ₹76,58,000/- in the hands of the assessee, therefore, the assessee cannot have any grievance at all.

5. We have considered the rival submissions on either side and perused the relevant material available on record. The only issue arises for consideration is estimation of value of land under Section 50C of the Act for the purpose of computing capital gain. We have carefully gone through the provisions of Section 50C of the Act. Section 50C of the Act in categorical term says that when the assessee received consideration on transfer of capital asset, the valuation fixed by the State Government authorities under the Stamp Act for the purpose of levy of stamp duty in respect of such transfer, shall be taken as value of consideration under Section 48 of the Act for computing the capital gain. In case the assessee claims that the value adopted by the registration authorities for stamp duty exceeds fair market value of property on the date of transfer, the Assessing Officer may refer the valuation of capital asset to the Valuation Officer.

6. In the case before us, admittedly, the claim before the Assessing Officer was that the valuation adopted by the authorities for stamp duty exceeded the fair market value. When the valuation made by the Valuation Officer exceeded the value adopted by the registration authorities for stamp duty, the value so adopted by the registration authorities for stamp duty purpose shall be taken as full consideration received or accrued to the assessee as a result of transfer. In the case before us, the assessee claims that the property was sold at ₹1,25,00,000/- and the Sub-Registrar estimated the market value for the purpose of stamp duty at ₹1,80,20,000/-. In fact, the Departmental Valuation Officer estimated the value at ₹1,53,15,300/-, therefore, the CIT(Appeals) has rightly adopted this value and the assessee being one of the co-owners, along with his brother, has taken 50% of valuation for the purpose of stamp duty. In those circumstances, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on 15th September, 2016 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 15th September, 2016.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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