

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'D' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री संजय अरोड़ा, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI SANJAY ARORA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.244/Mds/2017

निर्धारण वर्ष / Assessment Year : 2012-13

The Income Tax Officer,
Non Corporate Ward 3(5),
Chennai - 600 034.

v.

Shri Raghu Ramadas,
Flat No.5B, 5C, KGS Vrudhi
Apartments,
New No.216, 220, 222, Old No.867
PH. Road, Kilpauk,
Chennai - 600 010.

(अपीलार्थी/Appellant)

PAN : AAEPR 5864 K

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri Shiva Srinivas, JCIT

प्रत्यर्थी की ओर से/Respondent by : None

सुनवाई की तारीख/Date of Hearing : 20.03.2017

घोषणा की तारीख/Date of Pronouncement : 24.04.2017

आदेश /O R D E R

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

This appeal of the Revenue is directed against the order of the Commissioner of Income Tax (Appeals)-4, Chennai, dated 27.10.2016 and pertains to assessment year 2012-13.

2. No one attended for the assessee inspite of issue of notice by RPAD. Therefore, we heard Ld. Departmental Representative and proceeded to dispose of the appeal on merit.

3. Shri Shiva Srinivas, the Ld. Departmental Representative, submitted that the only issue arises for consideration is computation of capital gain. According to the Ld. D.R., while computing the capital gain, the Assessing Officer refused to index from the date on which the original owner acquired the asset. According to the Ld. D.R., the property came to the assessee by way of settlement deed, therefore, the cost of acquisition has to be ascertained on the date on which the property came to the assessee by way of settlement deed. However, the CIT(Appeals) allowed the claim of the assessee by placing his reliance on the judgment of Bombay High Court in Manjula J. Shah (2013) 355 ITR 474. According to the Ld. D.R., the cost indexation has to be made under Section 48 of the Income-tax Act, 1961 (in short 'the Act').

4. We have considered the submission of Ld. Departmental Representative and perused the material available on record. Admittedly, the assessee received the property by way of settlement deed, otherwise it is known as gift. Therefore, in view of the

judgment of Manjula J. Shah (supra), the indexation has to be made from the date on which the original owner acquired the property. In fact, the CIT(Appeals) by following the judgment of Bombay High Court in Manjula J. Shah (supra) directed the Assessing Officer to compute the inflation indexation from the date on which the original owner acquired the property. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

5. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced on 24th April, 2017 at Chennai.

sd/-

(संजय अरोड़ा)

(Sanjay Arora)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 24th April, 2017.

Kri.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

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.