

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. 1570/Mds/2016
निर्धारण वर्ष / Assessment Year : 2011-12

Shri S.P.N. Rajan,
C1, No.14, D Block, 7th Street,
Anna Nagar (East),
Chennai – 600 102.

v. The Income Tax Officer,
Business Ward XIV (1),
Chennai.

PAN : AFEPR9843R
(अपीलार्थी/Appellant) (प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri N. Vijayakumar, CA
प्रत्यर्थी की ओर से/Respondent by : Shri V. Nandakumar, JCIT

सुनवाई की तारीख/Date of Hearing : 23.12.2016
घोषणा की तारीख/Date of Pronouncement : 31.01.2017

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)-7, Chennai dated 24.03.2016 and pertain to the assessment year 2011-12. The only issue arises for consideration is claim of exemption under Section 54F of the Income Tax Act, 1961 (in short 'the Act').

2. Shri N. Vijayakumar, the Ld. Representative for the assessee submitted that the assessee claimed exemption under Section 54F of the Act for ₹36,05,277/-. According to the Ld. Representative, the assessee purchased a land and building for ₹11,60,000/- and also incurred the expenditure of ₹24,30,000/- for renovation. The assessee has filed a copy of the agreement said to be entered into with contractor for renovation, in support of the claim of renovation. However, the Assessing Officer rejected the claim of the assessee on the ground that the assessee could not produce the bills and vouchers. Referring to the copy of the agreement for renovation which is available at page 19 of the paper book, the Ld. representative submitted that the assessee entered into an agreement with one Shri K.P. Ramachandran for renovation. The cost of renovation was agreed between the assessee and the contractor at ₹24,30,000/-. When the assessee entered into an agreement with contractor for renovation of the work agreeing for a price, the assessee could not produce the bills and vouchers for the work. At the best, the bills and vouchers would be produced by the contractor and certainly not by the assessee. The Ld. representative claimed that the contractor Shri K.P. Ramachandran died in a road accident. Therefore, he could not get the details of

bills and vouchers from him. Due to unwarranted incident, the assessee was handicapped in collecting the bills and vouchers from the contractor, for the purpose of complying with the requirement of the Assessing Officer. The Ld. representative placed his reliance on the Karnataka High Court in the case of *Rahana Siraj v CIT*, [2015] 128 DTR 302 (Kar) (HC).

3. On the contrary, Shri V. Nandakumar, the Ld. Departmental Representative submitted that Section 54F of the Act, clearly says that, what was exempted is the cost of acquisition of the land and building and not the cost of renovation. The cost of renovation cannot be construed as cost for purchase or construction of property. Hence, the Assessing Officer has rightly disallowed the claim of the assessee.

4. We have considered the rival submissions on either side and perused the material available on record. The Assessing Officer disallowed the claim of the assessee stating that the assessee cannot produce the bills and vouchers for the renovation work. It is not in dispute that the renovation was done by the assessee through contractor. In fact, the renovation was made through a civil

contractor by name Shri K.P. Ramachandran. When the assessee entered into an agreement for carrying out the renovation of the building with a contractor, the bills and vouchers could not be available with the assessee. Therefore asking the assessee to produce bills and vouchers for renovation is something impossible for the assessee to produce. Therefore, the Assessing Officer is not justified in calling for the bills and vouchers, when the assessee claims that the work was entrusted to the contractor. The fact that the renovation was entrusted to a contractor Shri K.P. Ramachandran is not in dispute. Therefore, this Tribunal is of the considered opinion that calling for bills and vouchers from the assessee is not justified.

5. Now coming to the contention of the Ld. D.R., that Section 54F of the Act allows only the cost of purchase and the cost of construction of the building and not the cost of renovation, this Tribunal is of the considered opinion that when the building was unfit for human habitation, the cost of renovation to make the building ready for human habitation would also form part of the cost of purchase or cost of construction. In fact, the Karnataka High Court in *Rahana Siraj v CIT*, [2015] 128 DTR 302, examined this

issue elaborately and found that a residential house means a proper habitual house and not merely a structure. The Karnataka High Court further found that it is the right of the assessee to decide as to how a residential house can be acquired at a reasonable cost. If the assessee decides that instead of going to purchase a ready to shift residential house, purchase an old house and get the same renovated for making it habitual as it is economical, the tax authorities cannot question such a decision taken by the assessee.

6. In view of the above, this Tribunal is of the considered opinion that the assessee is eligible for exemption under Section 54F of the Act. Accordingly, the orders of the lower authorities are set aside and the disallowance of ₹23,40,566/- is deleted.

7. In the result, the appeal of the assessee stands allowed.

Order pronounced on 31st January, 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 31st January, 2017.

JR.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-7, Chennai
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.