

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH, BENGALURU**

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
and  
SHRI LALIT KUMAR, JUDICIAL MEMBER**

ITA No.120/Bang/2016  
(Assessment year : 2010-11)

Income-tax Officer,  
Ward 1(2)(1),  
Bengaluru ... Appellant

Vs.

Shri C.D.Medappa,  
No.21/29, M.G.Road,  
Bengaluru-560001. ... Respondent  
*PAN:BDIPS9841M*

Appellant by : Shri M.K.Biju, JCIT(DR).  
Respondent by : Shri V.Srinivasan, Advocate.

Date of hearing : 07/11/2017  
Date of pronouncement : 17/01/2018

**O R D E R**

**Per INTURI RAMA RAO, AM :**

This is an appeal filed by the revenue directed against the order of the Id. Commissioner of Income Tax (Appeals)-1, Bangalore, [CIT(A)] dated 14/10/ 2015 for the assessment year 2010-11.

2. The revenue raised the following grounds of appeal:

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1. The order of the Learned CIT (Appeals), in so far as it is prejudicial to the interest of revenue, is opposed to law and the facts and circumstances of the case.
2. The CIT(A) erred in holding that the FMV adopted by the assessee @ Rs.350/- per sq.ft. to be reasonable, in place of Rs.510/- per sq. mtr. adopted by the Assessing Officer, without taking into consideration, the FMV reported by the sub-registrar based on the property registered in the year 1981 in the same locality, @ Rs.446.17 per sq.mtr., which is considered to be a valid basis for arriving at the FMV.
3. For these and such other grounds that may be urged at the time of hearing, it is humbly prayed that the order of the CIT(A) be reversed and that of the Assessing Officer be restored.
4. The appellant craves leave to add, to alter, to amend or delete any of the grounds that may be urged at the time of hearing of appeal.

3. Brief facts of the case are as under:

The assessee is an individual deriving income under the head 'other sources' and 'capital gains'. The return of income for the assessment year 2010-11 was filed on 07/10/2010 declaring total income of Rs.6,82,440/- after claiming exemption under section 54F of the Income Tax Act 1961[hereinafter referred to as 'the Act' for short]. Subsequently the assessee filed a letter dated 12/06/2014 before the Assessing Officer withdrawing the exemption claimed under section 54F. Based on this information, the Assessing Officer issued notice under section 148 on 20/06/2014 calling for the return of income for the assessment year 2010-11 in order to assess the escaped income. The assessee has e-filed return of income. Against said return of income, the assessment was completed by the Income Tax Officer, Ward-1(2)(1), Bangalore vide order dated 24/12/2014 passed under section 143(3) read with section 147 of the Act at total income of Rs. 3,78,06,090/-. The variation between the returned income and the assessed income is only on account of addition made under the head

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'capital gains' on sale of property bearing No.21/41, MG Road Bangalore. The addition was made by the Assessing Officer by computing indexed cost of acquisition of the property sold by adopting the rate of Rs.510 per square meter as on 01/04/1981 as against the rate adopted by the assessee of Rs.350/- per sq.ft.

4. The facts set out by the Assessing Officer leading to the addition are as under:

7. In the instant case, the said property came into the possession of Smt. Ammani Ramachandran, consequent to a family partition in the year 1972. After her death in 2006, the property came into the possession of the assessee. In order to find out the cost of acquisition for purposes of working out the capital gains, one has to find out what was the cost to Smt. Ammani Ramachandran, or the Fair Market Value of the property as on 01/04/1981.

8. Therefore, in order to ascertain the FMV of the assessee's property as on 01/04/1981, reliance is placed on the letter dated 02-03-2013, received from the sub-registrar in connection with the value of land in M.G.Road in the year 1981.

9. The Sub-Registrar, vide his letter dated 02/03/2013 has stated that there was only one sale of property reported in M.G.Road in the year 1981, that of property No.103,102/1 sold on 31/03/1981. As per his report, the value of the land sold works out to Rs.446.17 per sq.mtr.

10. The AR vide letter dated 27/10/2014, submitted that, as the assessee's property was located in the best part of M.G.Road the value may be adopted at Rs.350 per Sq.ft as on 01/04/1981. However, taking into account the sub-registrar's report, and the prevailing land rate in M.G.Road during the year 1981, I am of the view that Rs.510/-per sq.mtr is reasonable and accordingly adopt the same which works out to Rs. 20,86,826/- and the assessee's share is 10,43,413/-.

5. Aggrieved by the assessment order an appeal was preferred before the Id.CIT(A) who, vide impugned order, allowed the appeal holding as under:

4. The Appellant submitted a copy of the letter dated 27/10/2014 filed before the Learned Assessing Officer wherein detailed explanation was given by the Appellant as to the basis of the adoption of the Fair Market Value of Rs.350/sq.ft as on 01/04/1981 for the property in question.

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The Appellant had along with the said letter submitted to the Learned Assessing Officer a copy of the decision of the ITAT ("B" Bench) of C.H.Prahlada Rao, Bangalore dated 17/09/2010 wherein the Tribunal had adopted a value of Rs.200/sq.ft as the Fair Market Value of a property located at 4<sup>th</sup> Block, Jayanagar. Appellant is producing a copy of the judgment for your information and perusal.

There is good force in the submission that if the value of a property located at Jayanagar which was far less developed than M.G.Road could be taken at Rs.200/sq. ft as at 01/04/1981, the value of Rs.350/sq.ft adopted for a property at M.G.Road which was always the most prime location in Bangalore is extremely reasonable.

5. As there is alternate submission that if the value of the property as on 01/04/1981 is adopted by working backwards from the rate per sq.ft of compensation received based on the Inflation Index adopted for computation of Capital Gains, the Fair Market Value of the Appellant's property would come to Rs.2048/sq.ft as on 01/04/1981 working backwards from a compensation of Rs.12945/sq.ft received in the Financial Year 2009-10. The Appellant claims to have adopted a conservative approach and has taken only a value of Rs.350/sq.ft as the Fair Market value as on 01/04/1981. In Para 6 of the Assessment order dated 24/12/2014, the learned Assessing Officer has himself stated that the value of Rs.200/sq.ft adopted for a property in Jayanagar cannot be considered as it is nowhere near the Appellant's property. This observation by the Officer in effect supports the claim of the Appellant.

In view of the above arguments, the appellant succeeds in his appeal as the value adopted by him is very reasonable.

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6. Being aggrieved by this order of the Id.CIT(A), the revenue is in appeal before us.

7. The learned DR contended that the fair market value of the property as on 01/04/1981 for the purpose of computing cost of acquisition of the property should be based on the guidance value of the Sub Registrar. The Id.CIT(A) ought not to have accepted the methodology of backward working.

On the other hand the learned counsel for the assessee supported the order of the CIT(A).

8. We heard rival submissions and perused material on record. The only issue in the present appeal is whether the CIT(A) was justified in adopting backward working of sale price for the purpose of working out FMV as on 1/4/1981. When the market value of the property is known, working backward for a passage of time based on inflation rate is one of the accepted methods of valuation of the property. The CIT(A) has accepted this method of backward working out of FMV and this principle is also recognized in the following decisions:

- i. *Shantadevi Gaekwad* (72 DTR 241)
- ii. *Jahanganj Cold Storage vs. ACIT* (133 TTJ 278)(Agra)(TM)
- iii. *Mizar Anita Pai & another* in ITA No.198 & 199/Bang/2011 dated 30/08/2012

Further, the guidelines value adopted for registration was not found to be relevant for determination of value of property for gift tax purpose, as it does not reflect value of a particular property but the value of a particular area in which property is situated. (*CGT vs. R.Jawahar* (1996) 217 ITR 59 (Mad) and *CGT vs. R.Damodaran* (247 ITR 698). Therefore, We don't find any fallacy in the order of the CIT(A). Therefore grounds of appeal filed by the revenue are dismissed..

9. In the result, the appeal filed by the revenue is dismissed.

*Order pronounced in the open court on 17<sup>th</sup> January, 2018.*

Sd/-  
**(LALIT KUMAR)**  
**JUDICIAL MEMBER**

sd/-  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

Place : Bengaluru  
Date : 17/01/2018  
*srinivasulu, sps*

**Copy to :**

- 1 Appellant
- 2 Respondent
- 3 CIT(A)
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

By order

Senior Private Secretary  
Income-tax Appellate Tribunal  
Bangalore