

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' BENCH, CHENNAI

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

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

आयकर अपील सं./ITA No.2540/Mds/2017

निर्धारण वर्ष / Assessment Year : 2013-14

The Income Tax Officer,  
Non Corporate Ward - 1(2),  
Chennai.

v. Shri G. Dhanasekar,  
31, Rakiappa Mudali Street,  
Mylapore, Chennai - 600 004.

(अपीलार्थी/Appellant)

PAN : AGDPD 0932 B

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.2541/Mds/2017

निर्धारण वर्ष / Assessment Year : 2013-14

The Income Tax Officer,  
Non Corporate Ward - 1(4),  
Chennai.

v. Shri G. Karthik,  
31, Rakiappa Mudali Street,  
Mylapore, Chennai - 600 004.

(अपीलार्थी/Appellant)

PAN : AKKPK 4869 R

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Smt. Ruby George, CIT

प्रत्यर्थी की ओर से/Respondents by : None

सुनवाई की तारीख/Date of Hearing : 30.01.2018

घोषणा की तारीख/Date of Pronouncement : 28.02.2018

### **आदेश /O R D E R**

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

Both the appeals of the Revenue are directed against the respective orders of the Commissioner of Income Tax (Appeals) -2,

Chennai, dated 28.07.2017 and pertain to assessment year 2013-14.

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

3. Smt. Ruby George, the Ld. Departmental Representative, submitted that the assessees claimed exemption under Section 54F of the Income-tax Act, 1961 (in short 'the Act') in respect of capital gain. The CIT(Appeals) allowed the claim of the assessees on the basis of the judgment of Madras High Court in CIT v. V.R. Karpagam (2014) 226 Taxman 197. Placing reliance on the judgment of Apex Court in M.J. Siwani v. CIT (2015) 53 taxmann.com 318, the Ld. D.R. submitted that even the capital asset owned by the assessee jointly with other person would be considered as one residential house. Therefore, according to the Ld. D.R., the CIT(Appeals) is not correct in allowing the claim of the assessees.

4. We have examined the submission of Ld. Departmental Representative on the basis of material available on record. In the case before us, it is not a case of the Revenue that the assessees are jointly owning any other residential house. The specific case of

the Revenue is that the assessee owns more than one house. The Madras High Court in the case of V.R. Karpagam (supra) found that Section 54F of the Act was amended with effect from 01.04.2015. Before the amendment, an assessee can have more than one house. The Madras High Court found that the amendment made with effect from 01.04.2015 is retrospective in operation, therefore, it is not applicable for earlier years. Therefore, this Tribunal is of the considered opinion that the judgment of Supreme Court in M.J. Siwani (supra) is not applicable to the facts of the case. Since the CIT(Appeals) has followed the judgment of Madras High Court, 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, both the appeals filed by the Revenue stand dismissed.

Order pronounced on 28<sup>th</sup> February, 2018 at Chennai.

sd/-

(एस जयरामन)

(S. Jayaraman)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 28<sup>th</sup> February, 2018.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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