

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.287/Chny/2017

निर्धारण वर्ष / Assessment Year : 2007-08

Smt. W.M.M. Mahmood Asia,
191, N.S.C. Bose Road,
Chennai - 600 001.

v. The Income Tax Officer,
Non Corporate Ward 11(2),
Chennai.

PAN : AAFPA 3245 E

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S.A. Abdul Rahim, CA

प्रत्यर्थी की ओर से/Respondent by : Shri B. Sahadevan, JCIT

सुनवाई की तारीख/Date of Hearing : 22.02.2018

घोषणा की तारीख/Date of Pronouncement : 28.02.2018

आदेश /ORDER

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

This appeal of the assessee is directed against the order of the Principal Commissioner of Income Tax-8, Chennai, dated 18.03.2016 and pertains to assessment year 2007-08.

2. When the appeal was taken up for hearing, Shri S.A. Abdul Rahim, the Ld. representative for the assessee, submitted that the

ground relating to indexed cost of acquisition, which was raised as ground No.1 and the difference in guideline value which was raised as ground No.3 are not pressed. The Ld. representative made an endorsement in the file to that effect. Now what remains is only the second ground of appeal with regard to claim of exemption under Section 54 of the Income-tax Act, 1961 (in short 'the Act').

3. Shri S.A. Abdul Rahim, the Ld. representative for the assessee, submitted that the assessee was residing at No.27, Jambulingam Street, Nungambakkam, Chennai and sold this property on 21.07.2006. According to the Ld. representative, in fact, the assessee was occupying the premises and she was staying there. Since the said property was in a very dilapidated condition, according to the Ld. representative, the same was demolished and thereafter it was sold. The assessee, in fact, invested the sale consideration in another property in Neelangarai. Since the assessee has sold the residential premises, which was in a dilapidated condition, according to the Ld. representative, the assessee is entitled for claim of exemption under Section 54 of the Act.

4. On the contrary, Shri B. Sahadevan, the Ld. Departmental Representative, submitted that the assessee demolished the existing building and what was transferred was only vacant land, therefore, the provisions of Section 54 is not applicable at all.

5. We have considered the rival submissions on either side and perused the relevant material available on record. The assessee sold a vacant land and claimed exemption under Section 54 of the Act. The assessee claims that she was residing in the premises. Since the building was in a dilapidated condition, she sold the same and invested the sale consideration in a property at Neelangarai. There is no material available on record to suggest whether there was any agreement between the parties for sale of the residential property before demolition. The fact that the assessee used the premises for her residential purpose is not in dispute. The only contention of the Ld. Departmental Representative is that the residential building was demolished and the assessee has transferred only the vacant land. If that is so, the vacant land is also a capital asset and in that case, the assessee is entitled for exemption under Section 54F of the Act in case the assessee complies with the conditions prescribed therein.

6. Since the facts are not clear whether there was any agreement for sale of property before demolition of the building, this Tribunal is of the considered opinion that the Assessing Officer needs to reconsider the matter afresh. Accordingly, orders of both the authorities below are set aside and the claim of deduction under Section 54 of the Act is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the matter and find out whether there was any agreement for sale before the demolition of the residential building and also examine whether the assessee is eligible for exemption under Section 54F of the Act in case the property was transferred as vacant land. Thereafter the Assessing Officer shall decide the issue afresh, in accordance with law, after giving a reasonable opportunity to the assessee.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 28th February, 2018 at Chennai.

sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 28th February, 2018.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. Principal CIT-8, Chennai-6
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.