

आयकर अपीलीय अधिकरण, 'ए' एस एम सी न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' SMC BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य के समक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER

आयकर अपील सं./ITA No.2753/Chny/2017

निर्धारण वर्ष / Assessment Year : 2013-14

Ms. N. Hemavathi,  
No.42, Jawahar Nagar,  
1<sup>st</sup> Main Road, Peravallur,  
Chennai - 600 082.

v. The Income Tax Officer,  
Non Corporate Ward 10(2),  
Chennai - 600 034.

PAN : AQRPN 3430 C

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri D. Anand, Advocate

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

सुनवाई की तारीख/Date of Hearing : 27.03.2018

घोषणा की तारीख/Date of Pronouncement : 03.04.2018

### **आदेश / O R D E R**

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -12, Chennai, dated 20.09.2017 and pertains to assessment year 2013-14.

2. The only issue arises for consideration is disallowance of the claim of the assessee under Section 54 of the Income-tax Act, 1961 (in short 'the Act').

3. I heard Shri D. Anand, the Ld.counsel for the assessee and Shri B. Sahadevan, the Ld. Departmental Representative. The assessee invested in two house properties for claiming deduction under Section 54 of the Act. Admittedly, the assessee sold a house property at Old door No.19A, Nettal Garden Street, Perambur, Chennai-11. The assessee invested in a house property at Mambakkam Village during the financial year 2011-12. Admittedly, the investment in the property at Mambakkam Village was made before the sale of the property. During the financial year 2013-14 relevant to assessment year 2014-15, the assessee also invested a sum of ₹25,00,000/- in a house property at Ayanavaram. The assessee claimed deduction in respect of both the investments under Section 54 of the Act. The assessee placed his reliance on the judgment of Madras High Court in CIT v. Gumanmal Jain in T.C.A. No.33 of 2017 dated 03.03.2017 and contended that the assessee can have more than one house before 2015-16.

4. The CIT(Appeals) distinguished this judgment of Madras High Court on the ground that the subject matter before the Madras High Court was in respect of different residential units in one complex. In this case, the properties are not within the same compound. The assessee has purchased two independent houses one at Mambakkam Village and another at Ayanavaram. The property at Mambakkam Village was purchased before the sale and the Ayanavaram property was purchased

after the sale of the property. In the case before Madras High Court, the assessee has several independent units consequent to the joint development agreement with the builder for developing the property. In those factual circumstances, the Madras High Court found that even though the assessee has several independent units in the property developed by the developer, it has to be construed as a single unit for the purpose of allowing deduction under Section 54 of the Act. In the case before us, the assessee has purchased two different houses in different corner of the city. One is at Mambakkam Village and another at Aynavaram. In fact, the property at Mambakkam Village was purchased before the date of sale of property and the Aynavaram property was purchased after the sale of property. As rightly observed by the CIT(Appeals), there was no common agreement and the properties are totally different and purchased at different point of time. Therefore, the CIT(Appeals) has rightly confirmed the order of the Assessing Officer. This Tribunal do not find any reason to interfere with the order of the lower authority.

5. However, the Assessing Officer has allowed exemption in respect of property at Mambakkam Village. In fact, the investment made in Mambakkam Village property was ₹21,62,136/-. The investment in Aynavaram property was ₹25,00,000/-. This Tribunal is of the considered opinion that the investment made in Aynavaram property being the

highest one, it has to be taken into consideration for the purpose of exemption under Section 54 of the Act. To that extent, the order of the Assessing Officer needs to be modified. Accordingly, while confirming the order of the Assessing Officer, the Assessing Officer is directed to allow exemption of ₹25,00,000/- in respect of Aynavaram property alone instead of the property at Mambakkam Village.

6. With the above modification, the order of the Assessing Officer is confirmed.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on 3<sup>rd</sup> April, 2018 at Chennai.

sd/-  
(एन.आर.एस. गणेशन)  
(N.R.S. Ganesan)  
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 3<sup>rd</sup> April, 2018

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-12, Chennai
4. Principal CIT-3, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.