

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
' D' BENCH : CHENNAI

श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष
एवं एस जयरामन, लेखा सदस्य

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER & SHRI
S.JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.1743/CHNY/2017

निर्धारण वर्ष /Assessment year : 2013-14

The Income Tax officer,
Ward No.5,
6th,North Cotton Road,
Tuticorin.628 001

Vs. Shri G.Venkatasubramanian,
No.2,4th Street, Tooveypuram,
Tuticorin-628 001.

[PAN AGKPM 7088 G]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Ms.Vijaya Prabha,JCIT,D.R
: Mr.R.Vijaya raghavan,Advocate

सुनवाई की तारीख/Date of Hearing

: 27-06-2018

घोषणा की तारीख /Date of Pronouncement

: 27-06-2018

आदेश / ORDER

PER GEORGE MATHAN, JUDICIAL MEMBER

This is an appeal filed by the Revenue against the order of
the Commissioner of Income-tax (Appeals)-1, Madurai in ITA

No.0113/2016-17 dated 28.04.2017 for the assessment year 2013-14.

2. In this appeal, the Revenue has raised the following grounds:-

- 1. The order of the CIT(A) is opposed to law, on the facts and in the circumstances of the case.*
- 2. The CIT(A) has erred in allowing the appeal of the assessee on the ground that the assessee had invested in new residential property within the due date u/s.139(4) for claiming exemption u/s.54 of the Income tax Act.*
- 3. The CIT(A) ought to have seen that section 54(2) states that if the amount of capital gains which is not appropriated by the assessee towards purchase of new asset made within one year before the date on which transfer of the original asset took place, or which is not utilized by him for purchase or construction of the new asset before date of furnishing of the return of income shall be deposited by him in the capital gain account scheme and since the assessee has not deposited the unutilized capital gains in capital gains account scheme within the due date allowed under section 139(1), the assessee is not entitled to claim exemption u/s.54 and hence the CIT(A) ought to have sustained the addition made by the Assessing officer.*

3. Ms.Vijaya Prabha, represented on behalf of the Revenue, and Mr.R.Vijayaraghavan represented on behalf of the Assessee.

4. At the time of hearing, it was submitted by Id.D.R that the issue in the appeal was against the action of the Ld.CIT(A) in holding that the time limit for depositing the unutilized portion of the capital gains in the Capital Gains Account Scheme was the time provided in provisions of the section 139(4) of the Act.

5. In reply, the Id.A.R submitted that the issue was that the assessee had constructed a new residential property after the sale of his house property and the construction was done within the time provided in the provisions of the section 139(4) of the Act. It was a submission that there is no issue of deposit by the assessee in Capital Gains Account Scheme. At this point, it was requested that the facts may be placed before the Tribunal. However, neither side was willing to place the facts before the Bench. Consequently, we have perused the order of the Ld.CIT(A) and adjudicated the issue.

6. We have heard both the parties and perused the material on record. It was noticed that the Id.CIT(A) has given his findings in paragraph Nos. 4 & 4.1 of his order and this findings of the Id.CIT(A) has neither been shown to be erroneous, nor being shown to be perverse on the facts of the case. Consequently, we find no reason to interfere with the order of the Id. CIT(Appeals). In these

circumstances, the findings of the Ld.CIT(A) on this issue stands confirmed.

7. In the result, the appeal of the Revenue is dismissed.

Order pronounced on 27th June, 2018, at Chennai.

Sd/-

(एस जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/Accountant Member

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai

दिनांक/Dated: 27th June, 2018.

K S Sundaram

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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