

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
'D' 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.550/Chny/2018

निर्धारण वर्ष / Assessment Year : 2013-14

Shri R. Karpagam,
80/44, Ansari Street, Ram Nagar,
Coimbatore – 641 009.

v. The Assistant Commissioner of
Income Tax,
Non-Corporate Circle – 2,
Coimbatore.

PAN : ARBPK 4307 N
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by : Ms. S. Vijayaprabha, JCIT

सुनवाई की तारीख/Date of Hearing : 16.08.2018

घोषणा की तारीख/Date of Pronouncement : 12.09.2018

आदेश /ORDER

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

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -2, Coimbatore, dated 28.09.2017 and pertains to assessment year 2013-14.

2. There was a delay of 51 days in filing this appeal by the assessee. The assessee has filed a petition for condonation of

delay. We have heard the Ld.counsel for the assessee and the Ld. D.R. We find that there was sufficient cause for not filing the appeal before the stipulated time. Therefore, we condone the delay and admit the appeal.

3. The only issue arises for consideration is determination of fair market value as on 01.04.1981 for the purpose of computation of capital gain tax.

4. Shri S. Sridhar, the Ld.counsel for the assessee, submitted that for the purpose of computing capital gain, the Assessing Officer has taken the fair market value as on 01.04.1981 as ₹4.5 per sq.ft. on the basis of guideline value fixed by the Sub-Registrar. According to the Ld. counsel, the assessee has also valued the property through a Chartered Engineer. The Chartered Engineer valued the property as on 01.04.1981 at ₹80/- per sq.ft. According to the Ld. counsel, the valuation made by the Chartered Engineer was not doubted by the Assessing Officer. The Assessing Officer simply ignored the valuation of the Chartered Engineer and adopted the guideline value. In the absence of any other material, according to the Ld. counsel, the Assessing Officer ought to have adopted the valuation made by the Chartered Engineer.

5. We heard Ms. S. Vijayaprabha, the Ld. Departmental Representative also. The assessee valued the property through a Registered Valuer / Chartered Engineer who fixed the valuation at ₹80 per sq.ft. The Assessing Officer found that the guideline value as on 01.04.1981 is ₹4.50 per sq.ft. Accordingly, the Assessing Officer adopted the guideline value. The CIT(Appeals) found that ₹42.25 per sq.ft. being an average value, he adopted the same. The Assessing Officer has not referred the matter to the Departmental Valuation Officer. Instead, she simply adopted the guideline value of the Sub-Registrar's office.

6. Guideline value may not represent the market value of the property. The guideline value is only for the purpose of finding out the market value to levy stamp duty at the time of registration of document. Market value would depend upon various factors, such as location of property, extent of property sold, availability of infrastructure facilities around the property, public access to the property, availability of educational institutions, hospital, bus stand, airport, etc. nearby to the land. These factors need to be considered by the Assessing Officer at the time of finding out fair market value as on 01.04.1981. The guideline value is also one of

the factors to be considered. Unfortunately, the Assessing Officer has simply adopted the guideline value without considering the above factors for the purpose of determining the fair market value as on 01.04.1981. The CIT(Appeals) adopted the average value by placing his reliance on the decision of Ahmedabad Bench of this Tribunal in *Ambalal Sarabai Enterprises Ltd. v. DCIT* in I.T.A. Nos.2602 & 2624/Ahd/2012 dated 11.04.2016.

7. Under normal circumstances, this Tribunal would have sent back the matter to the file of the Assessing Officer for reconsideration and to decide fair market value as on 01.04.1981 taking into consideration all the factors referred above. In the instant case, the amount involved is very small. Therefore, remanding back the matter may not serve any purpose to both the assessee and Revenue. Therefore, on estimate basis, to settle the issue once for all amicably, this Tribunal is of the considered opinion that ₹65 per sq.ft. would meet the ends of justice. Accordingly, orders of both the authorities below are modified. The Assessing Officer is directed to adopt fair market value as on 01.04.1981 at ₹65 per sq.ft. and thereafter compute the capital gain accordingly.

8. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the court on 12th September, 2018 at Chennai.

sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 12th September, 2018.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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