

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH: CHENNAI**

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं  
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI D.S.SUNDER SINGH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2142/Mds/2016  
निर्धारण वर्ष /Assessment Year: 2009-10

Shri Kishore Kumar Chordia, HUF,  
Rep. by Shri Kishore Kumar Chordia,  
No.13, Ramanuja Iyer Street,  
Chennai-79.

**Vs.** The Income Tax Officer,  
Non-Corporate Ward-5(1),  
Kannammai Building,  
Anna Salai,  
Chennai-600 006.

**[PAN: AAAHK 1996 F]**

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से /Respondent by  
सुनवाई की तारीख/Date of Hearing  
घोषणा की तारीख /Date of  
Pronouncement

: Mr.G. Baskar, Adv.  
: Mr.V.Nandkumar, JCIT  
: 29.12.2016  
: 31.01.2017

**आदेश / O R D E R**

**PER D.S.SUNDER SINGH, ACCOUNTANT MEMBER:**

This is an appeal filed by the assessee against an Order dated 05.04.2016 of Commissioner of Income Tax (Appeals)-5, Chennai, in ITA No.160/CIT(A)-5/13-14 for the AY 2009-10 and raised the following grounds:

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- 1) *The appellate order in ITA No. 160/CIT (A) 5/13-14 dated 05-04-2016 passed by the Commissioner of Income-tax (Appeals) 5, Chennai, is erroneous, opposed to law and facts of the appellant's case.*
- 2) *The learned Commissioner of Income-Tax (Appeals) erred in confirming the addition made by the Assessing Officer by re-computing the long-term capital gains in respect of sale of land while completing the re-assessment for assessment year 2008-09.*
- 3) *The learned Commissioner of Income-Tax (Appeals) failed to note that the sale consideration adopted by the Assessing Officer by adopting the rate of Rs.250 per sq.ft. was disproportionately high when compared to the actual market rate prevailing at the relevant point of time.*
- 4) *The learned Commissioner of Income-Tax (Appeals) failed to note that in the appellant's own case while completing the wealth-tax assessment for the very same assessment year, the Assessing Officer had adopted the market value of the asset in question at Rs.50 per sq.ft. which was the guideline value as on 31-3-2008 confirmed and communicated by the Sub-registrar, Thiruvottiyur, within whose jurisdiction the land in question situated.*
- 5) *For these and the other grounds which the appellant may be permitted submit at the time of hearing of the appeal, it is prayed, the addition made in the impugned assessment towards long-term capital gains may be directed to be deleted.*

**2.0** All the grounds of the appeal are related to the addition of Rs.6,88,494/- relating to the capital gains adopting the guideline value of Stamp Valuation Authority u/s.50C of Income Tax Act. During the assessment proceedings, the Assessing Officer (hereinafter referred to as 'AO') found that the assessee sold the property comprising of vacant land admeasuring 12078 sq.ft. at Plot Nos.102, 103, 104 (part), 113 part, 114 and 115 in the approved layout of KGL Nagar in Puddu Nagar, Manali, Chennai, for a consideration of Rs.24,15,600/- and admitted capital gains of Rs.23,08,077/-. The assessee has deposited a sum of Rs.23,50,000/- in Rural Electrification Bonds and claimed exemption u/s.54EC of Income Tax Act (in short 'the Act'). The AO found from the Sale Deed that the Stamp Valuing Authority adopted the market value at Rs.30,19,500/- and collected excess stamp duty which was paid by the assessee. Therefore,

the AO adopted the guideline value as per the provisions of Sec.50C of Income Tax Act for the purpose of computing the capital gains and brought to tax the difference amount of Rs.5,61,977/-.

**3.0** Aggrieved by the order of the AO, the assessee went on appeal before the Ld.CIT(A) and the Ld.CIT(A) upheld the order of the AO.

**4.0** Aggrieved by the order of Ld.CIT(A) the assessee is on appeal before us.

**5.0** During the appeal, the Ld.AR argued that the assessee declared the property in his Wealth Tax returns and while completing the Wealth Tax assessment, AO adopted the market value of the asset at Rs.50/- per sq.ft. which was the guideline value as on 31.03.2008 as per the SRO Office, whereas the AO has adopted the rates Rs.250/- per sq.ft. for computing the capital gains of the very same asset which is disproportionately high and unjustified. Further, the Ld.AR filed a copy downloaded from the website of Registration Department wherein the guideline value was reported Rs.50/- per sq.ft. in KGL Nagar. The Ld.AR argued that the assessment of market value @ Rs.30,19,500/- was unreasonable and unjustified by the Registration Office as well as the Income Tax Department. Consequently, the Ld.AR also submitted that the assessee has invested the entire consideration in Rural Electrification Bonds u/s.54EC of the Act. Further, Ld.AR argued that when the assessee

made investments in capital gain Bonds u/s.54EC, capital gains has to be computed taking the sale consideration as per the Sale Deed but not the guideline value as per Sec.50C of the Act. The assessee also relied on the decision of this Tribunal in Shri Shivkumar Lakshman in ITA No.402/Mds/2015.

**4.0** We heard the rival submissions and perused the material placed on record.

Admittedly the assessee sold the property for consideration of Rs.24,15,600/- declared capital gains of Rs.23,08,077/- and deposited a sum of Rs.23,50,000/- in Rural Electrification Bonds and claimed the deduction u/s 54EC of I.T. Act. The question raised before us is whether to adopt the market value declared by the assessee in wealth tax returns or to adopt the guideline value, for the purpose of computing the capital gains as per section 50C of the I.T. act. We have carefully gone through section 50C of Income tax act which reads as under:

**Special provision for full value of consideration in certain cases.**

<sup>91</sup> **50C.** (1) Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being land or building or both, is less than the value adopted or assessed <sup>92</sup>[or assessable] by any authority of a State Government (hereafter in this section referred to as the "stamp valuation authority") for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed <sup>92</sup>[or assessable] shall, for the purposes of [section 48](#), be deemed to be the full value of the consideration received or accruing as a result of such transfer.

(2) Without prejudice to the provisions of sub-section (1), where—

- (a) the assessee claims before any Assessing Officer that the value adopted or assessed <sup>92a</sup>[or assessable] by the stamp valuation authority under sub-section (1) exceeds the fair market value of the property as on the date of transfer;
- (b) the value so adopted or assessed <sup>92a</sup>[or assessable] by the stamp valuation authority under sub-section (1) has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court,

the Assessing Officer may refer the valuation of the capital asset to a Valuation Officer and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clause (i) of sub-section (1) and sub-sections (6) and (7) of section 23A, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (27 of 1957), shall, with necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Assessing Officer under sub-section (1) of section 16A of that Act.

<sup>93</sup>[*Explanation 1*].—For the purposes of this section, "Valuation Officer" shall have the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).

<sup>94</sup>[*Explanation 2*].—For the purposes of this section, the expression "assessable" means the price which the stamp valuation authority would have, notwithstanding anything to the contrary contained in any other law for the time being in force, adopted or assessed, if it were referred to such authority for the purposes of the payment of stamp duty.]

(3) Subject to the provisions contained in sub-section (2), where the value ascertained under sub-section (2) exceeds the value adopted or assessed <sup>94</sup>[or assessable] by the stamp valuation authority referred to in sub-section (1), the value so adopted or assessed <sup>94</sup>[or assessable] by such authority shall be taken as the full value of the consideration received or accruing as a result of the transfer.]

**5.0** The words used in the act are **the value adopted or assessed or assessable** by the stamp valuation authority but not any other value. The act is very clear in respect of computation of capital gains, that the value adopted by the stamp valuation authority for the purpose of payment of stamp duty required to be considered as full value of consideration for the purpose of capital gains and there is no ambiguity. When the act is very clear, it is not necessary to import the meaning from any other source. The market value adopted for Wealth Tax assessment has no bearing on Income Tax assessment for computing the capital gains.

**6.0** The Wealth tax assessment was completed **ex-parte** since there was no response from the assessee and the assessment was as on 31/03/2008 and the property in question was sold on 17/11/2008 and the

assessee has not disputed the stamp value assessed by the stamp value authorities. It is noticed from the assessment order, that the assessing officer has issued show cause notice on 28/11/2011 followed by reminder on 16/12/2011 but the assessee has not responded to the notice and did not file any objections for adopting the guideline value. The Ld.CIT(A) also passed the appellate Order **ex-parte** since there was no response from the assessee for the notices issued. The value adopted for the purposes of Wealth Tax and the guideline value reported in the website is estimated value of the locality but not the assessed value of the specific property. In case of actual transaction, the Stamp Valuation Authorities make the assessment with reference to specific property considering the locational advantages and the previous Registrations of the same locality. Therefore, we do not find any infirmity in the orders of lower authorities and hold that for the purpose of computation of capital gains u/s.50C guideline value fixed by the Stamp Valuation Authorities has to be adopted. The grounds raised by the assessee on this issue are dismissed.

**7.0** The next question raised before us by the Ld.AR of the assessee is whether to compute the capital gains adopting the deemed consideration per Sec.50C of the Act or the sale consideration disclosed as per sale deed, when the assessee has invested the whole of a sum in capital gains exemption bond u/s.54EC of IT Act. The assessee relied on this Tribunal decision in case of Shri Shivkumar Lakshman (cited supra)decided in connection with deduction u/s.54F of income tax act. The assessee's A.R

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raised this issue in his arguments but not raised any specific ground on this issue in the appeal. It is seen that, before the Ld.CIT(A) also no such ground was raised by the assessee and the Lower authorities have not considered this issue. The eligible deduction u/s 54EC has to be allowed and the balance amount of capital gains has to be brought tax. Since the assessee has invested the entire sale consideration in 54EC Bonds, this issue needs to be addressed by the AO as per the language used in section 54EC. Therefore, we remit the matter back to the file of the assessing officer to decide this issue afresh on merits.

**8.0** In the result, the appeal of the assessee is partly ***allowed for statistical purposes.***

Order pronounced in the Open Court on 31<sup>st</sup> January, 2017, at Chennai.

Sd/-

(एन.आर.एस. गणेशन)

**(N.R.S. GANESAN)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

Sd/-

(डि.एस. सुन्दर सिंह)

**(D.S.SUNDER SINGH)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 31<sup>st</sup> January, 2017.

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आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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