

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

श्री अब्राहम पी. जॉर्ज, लेखा सदस्य एवं  
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष ।  
[BEFORE SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER  
AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER]

आयकर अपील सं./I.T.A. No.2918/CHNY/2018.

निर्धारण वर्ष /Assessment year : 2012-2013.

The Assistant Commissioner  
of Income Tax,  
Non Corporate Circle 7(1)  
Chennai.

**Vs.** Shri. Vishwas Udupa,  
Z-2006, Z Block, Anguralia,  
13<sup>th</sup> Street, Anna Nagar,  
Chennai 600 040.

(अपीलार्थी/Appellant)

**[PAN ACUPV 5055C]**  
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri. M. Srinivasa Rao, IRS, CIT  
प्रत्यर्थी की ओर से /Respondent by : Shri. N.K. Mohnot, I.T.P.

सुनवाई की तारीख/Date of Hearing : 26-03-2019  
घोषणा की तारीख /Date of Pronouncement : 27-03-2019

**आदेश / O R D E R**

**PER ABRAHAM P. GEORGE, ACCOUNTANT MEMBER**

In this appeal filed by the Revenue, which is directed against an order dated 10.08.2018 of Commissioner of Income-tax (Appeals)-7, Chennai, it has taken altogether three grounds of which grounds 1 & 3 are general, needing no specific adjudication.

**2.** Ground No.2 is reproduced hereunder:-

*"2.1 The CIT(A) erred in deleting the addition made under the Long Term Capital Gain by directing the AO to adopt the value as given by the valuer, who had been recognised by the IT department by holding that the valuation report submitted by him is to be considered as being issued by a competent authority.*

*2.2 The CIT(A) ought to have appreciated the fact that the valuer Shri. T.R. Shivanandaiah has been registered as valuer under Wealth Tax Act 1975 purpose only and not for Income Tax purpose.*

*2.3 The CIT(A) omitted to consider the fact that the value adopted by the AO was based on the public domain. Whereas the assessee failed to establish the value adopted by him, was the same as value adopted by the other land/building owners in the same location by relying the SRO documents.*

*2.4 The CIT(A) erred in allowing the assessee to carry forward Long Term Capital Loss of Rs.20, 12,784/- after setting of exemption claimed u/s.54 of the Act, when there is no such provision available in the Act.*

*2.5 The CIT(A) ought to have appreciated the fact that exemption u/s.54 can be allowed only to the extent of Long Term Capital Gains available".*

**3.** Facts apropos are that assessee had sold an immovable property situated at No.22, Vishwas, Survey No.14, Peenya Village, Yeshwantpura, Bangalore North for a consideration of ₹6.35 crores. Assessee had computed capital gains taking cost of acquisition of land at ₹325/- per sq.ft. and that of the building at ₹675/- per sq.ft, as the base for 1981, while doing the indexation. Ld. Assessing Officer ascertained the rates of land of Jalahalli area from public domain and

came to a conclusion that assessee's plot could not have had a value of more than ₹70/- per sq.ft for the year 1981. He therefore recomputed capital gains substituting ₹70/- per sq.ft for land as the cost against ₹325/- considered by the assessee. Similarly cost per sq.feet for the building was reduced from ₹675/- to ₹200/- per sq.ft.

**4.** Assessee's appeal before Id. Commissioner of Income Tax (Appeals) was successful. Ld. Commissioner of Income Tax (Appeals) recomputed the capital gains and arrived at a capital loss considered the cost for 1981 as fixed by the registered valuer. According to him, value fixed by the registered valuer could not be ignored.

**5.** Now before us, the Id. Departmental Representative strongly assailing the order of the Id. Commissioner of Income Tax (Appeals) submitted that Id. Commissioner of Income Tax (Appeals) gave undue importance to the report of the registered valuer.

**6.** Per contra, Id. Authorised Representative strongly supported the order of the Id. Commissioner of Income Tax (Appeals).

**7.** We have considered the rival contentions and perused the orders of the authorities below. The valuation report produced by the assessee was from one Shri. T.R. Shivanandaiah, B.E. In the said valuation report, the rate per sq.ft. for land for 1981-82 was given as

₹150/ - and that of building as ₹190/- per sq.f.t. The report clearly indicated that the rates were based on Sub Registry fixation. The Id. Commissioner of Income Tax (Appeals) had also clearly mentioned that Shri. T.R. Shivanandaiah, the valuer was approved for that purpose by the Department. That apart, Id. Assessing Officer despite being put on notice by the Id. Commissioner of Income Tax (Appeals) on the submissions made by the assessee, had elected not to give any reply. In the circumstances, we do not find any reason to interfere with the order of the Id. Commissioner of Income Tax (Appeals).

**8.** In the result, the appeal of the Revenue stands dismissed.

Order pronounced on Wednesday, the 27th day of March, 2019, at Chennai.

**Sd/-**

**(धुव्वुरु आर.एल रेड्डी)**

**(DUVVURU RL REDDY)**

**न्यायिक सदस्य/JUDICIAL MEMBER**

**Sd/-**

**(अब्राहम पी. जॉर्ज)**

**(ABRAHAM P. GEORGE)**

**लेखा सदस्य /ACCOUNTANT MEMBER**

चेन्नई/Chennai

दिनांक/Dated:27th March, 2019.

**KV**

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        |