

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI
श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री इंटूरी रामा राव, लेखा सदस्य के समक्ष
BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.77/Chny/2019
(निर्धारण वर्ष / Assessment Year: 2015-16)

Shri Narayanasamy Muthurajan, Vs The Deputy Commissioner of
1, Bridgeway Colony Extension, Income Tax,
Narayanasamy Nagar, Circle – 1,
Tirupur – 641 607 Tirupur – 641 602.

PAN: BNLPM1424K

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri G. Baskar, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri N. Gopikrishna, JCIT

सुनवाई की तारीख/Date of hearing : 26.06.2019
घोषणा की तारीख /Date of Pronouncement : 09.08.2019

आदेश / O R D E R

PER INTURI RAMA RAO, ACCOUNTANT MEMBER:

This is an appeal filed by the Assessee directed against the order of the Commissioner of Income Tax (Appeals)-3, Coimbatore, (in short 'CIT(A)') dated 16.12.2018 for the Assessment Year 2015-16.

2. The brief facts of the case are as under:

The appellant is an individual, filed his return of income for the assessment year 2015-16 on 03.09.2015 disclosing total income of Rs.24,11,340/-. Against the said return of income, the assessment was completed by the Deputy Commissioner of Income Tax, Circle-1, Tirupur (hereinafter referred as 'AO') vide order dated 05.12.2017 passed U/s.143(3) of the Income Tax Act, 1961 (in short 'the Act') at a total income of Rs.24,11,340/-. While doing so, the AO brought to tax the compensation received on account of compulsory acquisition of land measuring 2722.3 Sq.metres at Valipalayam of Thottipalayam Village in Tirupur Town of Tirupur District by Highways Department of Govt. of Tamilnadu for constructing under bridge across the railway line near Tirupur Railway Station. It was stated that the appellant received compensation of Rs.2,37,93,590/- out of which, sum of Rs.2,14,14,298/- was deposited in Capital Gain Deposit Account in State Bank of India, Tirupur and during the course of assessment proceedings, the appellant made a claim that the same is eligible for exemption U/s.10(37) of the Act. The AO rejected the claim on the ground that there was no evidence to prove that the land was used

for agricultural purpose during the period of 2 years immediately preceding the date of acquisition.

3. Being aggrieved, an appeal was preferred before Ld.CIT(A), who vide impugned order dismissed the appeal as infructuous as the assessed income is same as the returned income. Being aggrieved, the appellant is before us in the present appeal.

4. Having considered the rival submissions, we are of the considered opinion that the Ld.CIT(A) ought not have dismissed the appeal as infructuous as the claim made during the course of assessment proceedings should have been examined by the AO and the CIT(A) is outbound to adjudicate the issue in appeal in accordance with law, as the taxable income is required to be determined in accordance with law, as the income tax proceedings are not adversarial proceedings. Therefore we remand the matter back to the file of the AO to examine the eligibility of exemption U/s.10(37) of the Act. Accordingly the appeal filed by the assessee is partly allowed for statistical purposes.

5. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the court on 9th August, 2019 at Chennai.

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

Sd/-

(इंटूरी रामा राव)

(Inturi Rama Rao)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 9th August, 2019.

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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