

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

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

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2219/Chny/2019
निर्धारण वर्ष /Assessment Year: 2014-15

Smt. Cynthia Ramona Chellappa
No.31A, Jagannathan Street,
Lakshmi Perumal Nagar,
Kottivakkam,
Chennai – 600 041.
[PAN: APAPC 1752Q]

The Income Tax Officer
Non-Corporate Ward – 15(1)
Vs. Chennai – 600 034

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Mr. T. Banusekar, C.A.
: Ms. R. Anita, JCIT

सुनवाई की तारीख/Date of Hearing

: 03.12.2019

घोषणा की तारीख /Date of Pronouncement

: 03.12.2019

आदेश / ORDER

PER GEORGE MATHAN, JUDICIAL MEMBER:

This is an appeal filed by the Assessee against the order of the learned Commissioner of Income Tax (Appeals)-15, Chennai in ITA No.384/2016-17/CIT(A)-15 dated 30.05.2019 for the Assessment Year 2014-15.

2. Shri T. Banusekar, Chartered Accountant represented on behalf of the Assessee and Ms. R. Anita, JCIT represented on behalf of the Revenue.

3. It was submitted by the learned Authorized Representative that the assessee is a Swiss individual married to an Indian and residing in India. The assessee had received a bequeathal through the Will of her God-Mother Eva Maria Schnelder-Boog an amount of 50,000 Swiss Francs through a Will executed on 26.08.2013. The learned Authorized Representative placed before us the copy of the proceedings of the Single-Judge Court, District Court of Meilen, wherein the testament has been clearly mentioned in respect of the last Will of Eva Maria Schnelder-Boog dated 15th September, 2009 executed on 26.08.2013 that Ms. Cynthia Chellappa, the God-daughter residing in India is given the legacy of Swiss Francs of 50,000. The learned Authorized Representative also placed before us the copy of the Decree by Cantonal Tax Office Zurich in respect of the inheritance tax paid by the assessee Ms. Cynthia Chellappa in respect of the legacy received of 50,000 Swiss Francs. The inheritance tax u/s.23f under the Inheritance Tax is at 7,200 Swiss Francs. It was a submission that the assessee had received the amount by way of Will and the Assessing Officer in the course of the assessment held that as per the provisions of Section 56(2)(vii) of the Income Tax Act, 1961 read with the Proviso thereunder was to be interpreted that the beneficiary has to be related within the meaning of explanation (e) to be a "relative" and not otherwise. As the God-mother who had bequeathed the amount to the assessee, was not a relative, the Assessing Officer treated the said amount of 50,000 Swiss

Francs received by the assessee as income from other sources. It was a submission that Section 56(2)(vii) and in the Fourth Proviso thereunder, clause (c) clearly held that the amount received through a Will is exempted. It was a submission that the learned CIT(A) did not consider the explanation of the assessee and had dismissed the assessee's claim.

4. In reply, the learned Departmental Representative supported the order of the learned Assessing Officer and the learned CIT(A).

5. We have considered the rival submission and perused the materials available on record.

6. A perusal of the provisions of Section 56(2)(vii) shows that any amount received by an individual without consideration and the aggregate value exceeds 50,000, the whole of the aggregate value is liable to be treated as income under the head "*income from other sources*". The Fourth Proviso thereunder provides for the exemptions. Clause (a) talks of any amount received from a relative, Clause (c) talks of any amount under the Will or by way of inheritance. For the purpose of Clause (a) of the Fourth Proviso, "relative" has been defined in explanation (e) to the Proviso. A Will can be written by anybody. In a Will, anybody can be given a bequeathal. It need not be a relative alone. The fact that the Fourth Proviso refers to relative in Sub-clause (a), and refers to a Will or inheritance in Clause (c) clearly shows that

the Will need not be a Will of a relative. Further, a Will is not given any restrictive meaning in the Explanation under the said Proviso either.

This being so, we are of the view that the amount received by the assessee as a legacy through the Will of Mrs. Eva Maria Schnelder-Boog of an amount of 50,000 Swiss Francs, under no circumstances, can be brought to tax under the head “*income from other sources*” as the same is exempted by Clause (c) of the Fourth Proviso to Section 56(2)(vii) of the Income Tax Act, 1961.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 3rd December, 2019 in Chennai.

Sd/-

(श्री एस. जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai,

दिनांक/Dated: 3rd December, 2019.

IA, Sr. PS

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