

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

आयकर अपील सं./I.T.A.No.3240/Chny/2018
(निर्धारण वर्ष / Assessment Year: 2015-16)

Shri M D Sundar Rao,
No.65/3, E H Road,
Vyasarpadi,
Chennai – 600 039.

Vs The Income Tax Officer,
Non-Corporate Ward -6(2),
Chennai.

PAN: EKRPS9444D

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri Anandd Babunath, CA
प्रत्यर्थी की ओर से/Respondent by : Shri AR.V. Sreenivasan, JCIT

सुनवाई की तारीख/Date of hearing : 08.01.2020
घोषणा की तारीख /Date of Pronouncement : 19.02.2020

आदेश / O R D E R

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

This appeal of the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals)–5, Chennai dated 18.09.2018 and pertains to the assessment year 2015-16.

2. Shri Anandd Babunath, the Ld. Representative for the assessee submitted that the only issue arises for consideration is

exemption claimed by the assessee U/s.54F of the Income Tax Act, 1961 (in short 'the Act'). According to the Ld. representative, the return of the assessee was selected for scrutiny for verification of sale of property. According to the Ld. representative, the assessee purchased a residential house at Plot No.78, 4th Cross Street, Mahakavi Bharathi Nagar, Chennai – 600 039 for Rs.45,00,000/- by means of two registered documents. In fact, the sale consideration received by the assessee by sale of property to the extent of Rs.79,97,500/- was utilized for purchasing the new asset. Initially according to the Ld. representative, the assessee entered into an agreement for purchase of property on 06.01.2015. However two registered sale deeds were executed probably with intention to avoid deduction of tax at source as insisted by the vendor. The Assessing Officer found that since the assessee purchased the property by means of two registered sale deed, the property relating to second registered document may not be appurtenant to the building which was purchased through the original registered sale deed. According to the Ld. representative, merely because two sale deeds were executed at the insistence of the vendor probably with an intention to avoid deduction of tax, the land portion relating to second document cannot be construed to be a land not appurtenant to the building.

Referring to the copy of the agreement of sale deed dated 06.01.2015, the Ld. representative submitted that the intention of the assessee and the vendor is very clear that the vendor intended to sell the entire property to the assessee. There may be various reasons for the vendor to execute a registered sale deed twice. The fact remains is that the assessee intended to purchase the residential house together with the land appurtenant thereto. Therefore, the CIT(A) is not justified in confirming the order of the Assessing Officer.

3. On the contrary, Shri AR.V. Sreenivasan, the Ld. Departmental Representative submitted that the assessee purchased the residential house by means of registered sale deed. Subsequently, the assessee has purchased the vacant site which is adjacent to the residential house purchased earlier. Therefore, the vacant land purchased adjacent to the existing residential house cannot be construed to be the land appurtenant to the building or the assessee is not eligible for the exemption U/s.54 of the Act.

4. We have considered the rival submissions on either side and perused the material available on record. The fact that the assessee entered into an agreement for purchase of property on 06.01.2015

with one Shri R. Selva Kumar is not in dispute. The copy of the agreement is in page No.27 of the Paperbook. This agreement is in purchase of the entire property which was purchased by the assessee by means of two sale deed. The copy of the first sale deed dated 11.02.2015 is available at page No.38 of the Paper-book. Similarly, the second registered sale deed dated 24.02.2015 is available at page No.84 of the Paper-book. The assessee has purchased the entire property within a span of 13 days in the month of February, 2015. An harmonious reading of the agreement for sale of the property and the registered sale deed clearly indicates that the assessee intended to purchase the entire property including the vacant land from the vendor Shri R. Selva Kumar. However two registered sale deeds were executed. There can be various reasons for executing the two sale deeds. One of the reason presumably as rightly submitted by the Ld. representative for the assessee that the vendor might have insisted for execution of two sale deeds in order to avoid deduction of tax at source. Whatever may be the reason the existing residential building as well as the vacant land adjacent to are appurtenant to each other. Therefore, this Tribunal is of the considered opinion that the vacant site purchased by the assessee which is adjacent to the residential house is necessary for convenient enjoyment of the building.

Therefore for all practical purpose, the vacant site adjacent to the existing building which was purchased by the assessee through the second sale deed also has to be construed as land appurtenant to the residential house. Hence the assessee is eligible for exemption U/s.54 of the Act. In view of the above discussion, this Tribunal is unable to uphold the orders of both the authorities below. The orders of both the authorities below are set aside and the Assessing Officer is directed to allow the claim of the assessee U/s.54 of the Act.

5. In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the court on 19th February, 2020 at Chennai.

Sd/-

(एस जयरामन)

(S. Jayaraman)

लेखा सदस्य /Accountant Member

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 19th February, 2020.

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 |