

आयकर अपीलीय अधिकरण , ' ए/SMC ' न्यायपीठ, चेन्नई

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A/SMC " 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. 3347/Chny/2018

निर्धारण वर्ष/Assessment Year : 2015-16

Shri. Parasuraman Ramamoorthy,
No.4/2, Flat No. 2-A,
Shree Gurukripa Cross Street,
Sankareswari Nagar,
West K.K. Nagar,
Chennai – 600 078.

Income Tax Officer,
Vs. New Corporate Ward 21(3),
Chennai.

[PAN: AADPR 1093F]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. M. Veerabathran Prasanth,
Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri. AR V Sreenivasan, JCIT

सुनवाईकीतारीख/Date of Hearing : 20.11.2019

घोषणाकीतारीख/Date of Pronouncement : 18.02.2020

आदेश/ O R D E R

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-9 i/c, Chennai in ITA No. 32/CIT(A)-9/2017-18 dated 26.09.2018 for assessment year 2015-16.

2. Shri Parasuraman Ramamoorthy, the assessee, claimed capital gains on sale of a property. While making the assessment for assessment year 2015-16, the Assessing Officer found that the assessee claimed capital gain over and above the registered sale deed at Rs. 15,00,000/-. Therefore, he required the assessee to furnish the relevant material and satisfy the capital gain exempt claim. The assessee filed a letter from the purchaser of the property confirming the payment of Rs. 15,00,000/- through banking transaction towards fitting and furniture, equipments, interior, pooja room, providing steel grills for balconies and door of the property purchased. After considering the assessee's reply etc., the AO refused to allow the long term capital gain on this issue. Aggrieved, the assessee filed an appeal before the CIT(A). The Ld. CIT(A) dismissed the appeal. Aggrieved against that order, the assessee filed this appeal.

3. The Ld. AR submitted that the Assessing Officer having observed that the fitting and furniture etc are movable assets and having received the confirmation letter from the purchaser that he has paid Rs. 15,00,000/- to the assessee through banking channel, should have allowed the assessee's claim of capital gain on the sum. Therefore, he pleaded that the assessee's appeal be allowed. Per contra, the Ld. DR submitted that this impugned part of the consideration was not found in

the sale deed. As per the confirmation letter, such payments towards fitting and furniture etc was made on 07.05.2014, whereas, the sale deed was registered on 23.05.2014. Since, the registered deed does not mentioned the impugned sale consideration and the assessee has not provided any material before the lower authorities to satisfy that those items claimed by the assessee having been sold were in the house etc., the lower authorities are correct in rejecting the assessee's claim and hence he supported the orders of the lower authorities.

4. We heard the rival submissions. The assessee claimed that he has received Rs. 1,50,00,000/- as sale consideration, which comprises Rs. 1,35,00,000/- towards the property as per the registered document and Rs. 15,00,000/- was paid towards fitting and furniture etc as specified, supra. Therefore, the assessee seeks long term capital gain for the entire 1,50,00,000/-. However, the registered document has shown the sale consideration at Rs. 1,35,00,000/- only. It is clear from the above that the purchaser has paid the impugned sum of Rs. 15,00,000/- through banking channel, which was confirmed and also accepted by the assessee. This fact is not disputed by the AO. In such facts and circumstances, the impugned transactions have to be treated towards movable assets, extra amenities etc as claimed by the assessee. However, the assessee has furnished the required particulars

in respect of them before the lower authorities. In the facts and circumstances, we remit this issue back to the AO for a fresh examination. The assessee shall lay relevant materials in support of his contention before the AO and comply with the requirements of the AO in accordance with law. The AO is free to conduct appropriate enquiry as deemed fit, but he shall furnish adequate opportunity to the assessee on the material etc to be used against it and decide the issue in accordance with law.

5. In the result, the assessee's appeal is treated as allowed for statistical purposes.

Order pronounced on Tuesday, the 18th February, 2020 at Chennai.

Sd/-

(एन.आर.एस .गणेशन)

(N.R.S. GANESAN)

न्यायिकसदस्य/Judicial Member

Sd/-

(एसजयरामन)

(S. JAYARAMAN)

लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 18th February, 2020

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त) अपील(/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF