

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C”BENCH: BANGALORE**

**BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER
AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No.2709/Bang/2018

AssessmentYear: 2010-11

Mr. Chikkaveerayya Chikkanna No.47, Uddandahalli village Tavarekere Hobli Bangalore South Taluk – 560082 PAN NO : AQLPC0604M	Vs.	Income Tax Officer Ward- 7(2)(4) Bangalore
APPELLANT		RESPONDENT

ITA No. 2710/Bang/2018

Assessment Year: 2010-11

Mr. Gujjaraiah Lakshminarayana No.47, Uddandahalli Village Tavarekere Hobli Bangalore South Taluk 560 082 PAN NO : ADEPL6897P	Vs.	Income Tax Officer Ward- 7(2)(4) Bangalore
APPELLANT		RESPONDENT

ITA No. 2711/Bang/2018
Assessment Year: 2010-11

Mr. Hanumanthaiah Chikkaveeraiah No.47, Uddandahalli Village Tavarekere Hobli Bangalore South Taluk 560 082 PAN NO : AMYPC2999M	Vs.	Income Tax Officer Ward- 7(2)(4) Bangalore
APPELLANT		RESPONDENT

ITA No. 2712/Bang/2018
Assessment Year: 2010-11

Mr. Chikkaveeraiah Narasimhamurthy No.47, Uddandahalli Village Tavarekere Hobli Bangalore South Taluk 560 082 PAN NO : AKMPN8079L	Vs.	Income Tax Officer Ward- 7(2)(4) Bangalore
APPELLANT		RESPONDENT

ITA No. 2713/Bang/2018
Assessment Year: 2010-11

Mr. Chikkaveerayya Gopal No.47, Uddandahalli Village Tavarekere Hobli Bangalore South Taluk 560 082 PAN NO : AUPPG1261L	Vs.	Income Tax Officer Ward- 7(2)(4) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Shri Sukesh Patil, A.R.
Respondent by	:	Smt. R. Premi, D.R.

Date of Hearing	:	19.03.2020
Date of Pronouncement	:	19.03.2020

ORDER

PER BENCH:

All these appeals filed by the assessee are directed against orders passed by Ld. CIT(A)-7, Bengaluru in the respective hands of the assessees and they relate to the assessment year 2010-11. Since the issues urged by these assessees are identical and are arising out of common set of facts, they were heard together and are being disposed of by this common order for the sake of convenience.

2. We heard the parties and perused the record. The A.O. of the assessees herein received information from Joint Director of Income Tax (Intelligence & Criminal Investigation, Bengaluru that these assessees along with other family members have sold a property situated at Chunchanakuppa village, Tavarekere Hobli, Bangalore South Taluk. It was noticed that the said property was an agricultural land and these parties have converted the land and sold it on 9.2.2010. These assessees received a

sum of Rs.70 lakhs each as their share in sale of property. Since these assesseees have not filed return of income, the A.O. issued a notice u/s 148 of the Income-tax Act,1961 ['the Act' for short]. Thereafter, the A.O. issued notice u/s 142(1) of the Act asking the assessee to file return of income. Since there was no response from the assesseees, the A.O. concluded assessment in the hands of each of the assesseees by assessing the amount of Rs.70 lakhs.

3. Before Ld. CIT(A), the assesseees furnished documents in support of the receipt of Rs.70 lakhs each, but the Ld. CIT(A) refused to admit these evidences by citing Rule 46A of the Income tax Rules. Accordingly, he confirmed the addition made by the A.O. in the hands of each of the assesseees. Aggrieved, the assesseees have filed these appeals before us.

4. The Ld. A.R. submitted that these assesseees have sold agricultural land and hence they did not file return of income. However, the A.O. has concluded the assessment by assessing entire sale consideration, even though he was aware that the land sold by the assesseees was agricultural land. In any case, the AO has not allowed deduction towards indexed cost of land. These assesseees have invested the amounts in purchase of residential property and hence, even if the claim of exemption is

denied, they are eligible for deduction u/s 54F of the Act. Accordingly, he submitted that the additional evidences furnished by the assesseees before Ld. CIT(A) may be admitted and the matters may be restored to the file of the A.O. for examining it afresh.

5. The Ld. D.R., on the contrary, submitted that these assesseees have not co-operated before the A.O. and did not file returns of income also. Hence Ld. CIT(A) has refused to admit additional evidences. Accordingly she opposed the prayer of the Ld A.R.

6. Having heard the rival contentions, we are of the view that, in the interest of natural justice, these assesseees should be given an opportunity to present their case before the A.O. Since the assessments have been done u/s 144 of the Act, there was no opportunity for these assesseees as well as for the AO to complete the assessment on the basis of correct facts. As rightly pointed out by the Ld A.R, the A.O. has assessed the entire sale consideration, even though he is aware of the fact that the sale consideration was received on sale of a land. Though the character of land is in dispute, yet the A.O. should have computed capital gain instead of assessing entire sale consideration if he has not accepted the character of land as agricultural land. The assesseees

are also making an alternative plea for deduction u/s 54F of the Act. We notice that none of these factual aspects could be examined by the A.O. Accordingly, we set aside the order passed by Ld. CIT(A) in the hands of the assessee herein and restore all the issues to the file of the A.O. for examining them afresh in accordance with law. The assessee is also directed to fully cooperate with the A.O. by furnishing all the information and explanations that may be called for by the A.O.

7. In the result, the appeals filed by the assessee are treated as allowed for statistical purposes.

Order pronounced in the open court on 19.3.2020

Sd/-

(Pavan Kumar Gadale)
Judicial Member

Sd/-

(B.R. Baskaran)
Accountant Member

Bangalore,
Dated 19th March, 2020.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.