

आयकर अपीलीय अधिकरण, “सी” न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL ‘C’ BENCH, CHENNAI  
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष  
Before Shri Duvvuru RL Reddy, Judicial Member &  
Shri S. Jayaraman, Accountant Member

आयकर अपील सं./I.T.A. No.1201/Chny/2019  
निर्धारण वर्ष/**Assessment Year:2014-15**

Smt. Raiza Abhas,  
No. 68 & 70, Raiza Mansion,  
Velachery Road, Little Mount,  
Saidapet, Chennai 600 016.  
**[PAN: AAFPR6508P]**

Vs. The Assistant Commissioner of  
Income Tax,  
Non Corporate Ward 14(1),  
Nungambakkam, Chennai 600 034.

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri D. Anand, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri Abani Kanta Nayak, CIT  
सुनवाई की तारीख/ Date of hearing : 27.10.2020  
घोषणा की तारीख /Date of Pronouncement : 29.10.2020

**आदेश /O R D E R**

**PER DUVVURUL RL REDDY, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Principal Commissioner of Income Tax, Chennai dated 04.03.2019 relevant to the assessment year 2014-15 passed under section 263 of the Income Tax Act, 1961 [“Act” in short] directing the Assessing Officer to redo the assessment after verification into the computation of capital gains and the exemption under section 54 of the Act.

2. Brief facts of the case are that the assessee filed the return of income for the assessment year 2014-15 on 30.08.2014 admitting an income of

₹.15,29,430/-. The return filed by the assessee was selected for scrutiny and against the statutory notices, the assessee furnished the details. On verification of the details filed by the assessee, the Assessing Officer completed the assessment under section 143(3) of the Act by assessing long term capital loss at ₹. NIL.

3. By invoking the provision of section 263 of the Act, the Id. PCIT was of the opinion that the assessment order passed under section 143(3) of the Act is erroneous and prejudicial to the interest of Revenue. Accordingly, after considering the submissions against the notice served under section 263 of the Act on the assessee, the Id. PCIT directed the Assessing Officer to complete the reassessment after carrying out verification into the computation of capital gains and the exemption claimed under section 54 of the Act.

3. On being aggrieved, the assessee is in appeal before the Tribunal. By reiterating the submissions as made before the Id. PCIT, the Id. Counsel for the assessee has submitted that the specific issue sought to be reconsidered was actually considered by the Assessing Officer while passing the assessment order under section 143(3) of the Act. Moreover, in the order passed under section 263 of the Act, Id. PCIT has not point out any specific issue sought to be reconsidered by the Assessing Officer, which he was not considered and therefore, on mere presumption, the Id. PCIT passed the

revision order without any jurisdiction and prayed for confirming the assessment order. On the other hand, the Id. DR dutifully supported the order of the Id. PCIT.

4. We have heard both the sides through video conferencing, perused the materials available on record and gone through the orders of authorities below. During the course of assessment proceedings, the Assessing Officer noticed from the records that as per the original return filed by the assessee, long term capital loss of ₹.7,55,429/- has been claimed in respect of sale of landed property at Yercaud. But, on examination of the working of the capital gain/loss, the Assessing Officer observed that the assessee has wrongly computed the indexed cost of improvement with respect to the property. On bringing the above fact to the notice of the assessee, a revised computation has been furnished by the assessee and accordingly, the long term capital loss was reduced to NIL and held that the assessee shall not be eligible to carry forward any long term capital loss.

4.1 While invoking the provisions of section 263 of the Act and on perusal of the sale deed furnished during the assessment proceedings, the Id. PCIT has noticed that the construction of the building was completed only on 23.03.2013. The deed further shows that the property was a new building, and therefore, the deduction under section 54 of the Act was not available and

short term capital gain is to be brought to tax. When the above observation was notified to the assessee and the submissions are reproduced as under:

“We are submitting computation of total income & Account copy of improvement of property at Yercaud for your kind perusal. The above improvement of property was done at various date which is reflected in the Account copy. The total cost of construction was ₹.20,15,000/- and indexation cost was ₹.22,58,383/- & Net indexation benefit was only ₹.2,43,383/- which was invested in bond & exemption claimed u/s 54. This information as produced before Assessing Officer in the course of hearing & the Assessing Officer had examined the issue and discussed the same in assessment order. Hence, the order cannot be said erroneous and prejudicial to the interest of revenue on different view”.

4.2 After considering the above submissions of the assessee, the Id. PCIT has opined that the perusal of the assessment records shows that the Assessing Officer has not carried out any verification of the details filed by the assessee. He further opined that the assessment which has been completed without any verification of the facts is erroneous in so far as it is prejudicial to the interest of Revenue and accordingly, while setting aside the assessment order, the Assessing Officer was directed to redo the assessment after carrying out verification into the computation of capital gains and the exemption claimed under section 54 of the Act.

4.3 On perusal of the revision order passed under section 263 of the Act, we find that the Id. PCIT has not given any specific findings as to what is erroneous in the assessment order and what is required to be verified by the Assessing Officer. On perusal of the assessment order, we find that after

examining the working of the capital gain/loss, the Assessing Officer has observed that the assessee has wrongly computed the indexed cost of improvement with respect to the property and accordingly, after revision of the computation, the long term capital loss was reduced to NIL. In the revision order, after considering the explanations of the assessee, the Id. PCIT has not disputed the computation of indexed cost of improvement as well as investment in bond and claiming exemption under section 54 of the Act or given any findings as to what is required to be verified by the Assessing Officer and what way the assessment order is prejudicial to the interest of Revenue. Under the above facts and circumstances, the revision order passed under section 263 of the Act stands quashed and sustains the assessment order.

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

Order pronounced on the 29<sup>th</sup> October, 2020 at Chennai.

Sd/-  
(S JAYARAMAN)  
ACCOUNTANT MEMBER

Sd/-  
(DUVVURUL RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, the 29.10.2020

Vm/-

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.