

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI  
श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष  
**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND  
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.1283/CHNY/2018  
(निर्धारण वर्ष / Assessment Year: 2012-13)

**Smt. Veeramangal Prashanth Priya,**  
New No.222, Old No.867,  
Flat No.2A, K.G.S. Vrudhi,  
Poonamallee High Road,  
Kilpauk, Chennai – 600 010.

Vs **The DCIT,**  
Non-Corporate Circle 10(1),  
Chennai – 34.

**PAN: BCWPP3003M**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri D. Anand, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri Suresh Periasamy, JCIT

सुनवाई की तारीख/Date of hearing

: 17.11.2020

घोषणा की तारीख /Date of Pronouncement

: 01.12.2020

**आदेश / ORDER**

**PER S. JAYARAMAN, ACCOUNTANT MEMBER:**

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-12, Chennai in ITA No.79/CIT(A)-12/2015-16 dated 20.02.2018 for the assessment year 2012-13.

2. Smt. Veeramangal Prasanth Priya, the assessee along with 14 other co-owners had sold the property, popularly known as 'Hotel Dasaprakash' located at Poonamallee High Road, for a total consideration of Rs.165 Crores. Towards her proportionate share in the sale consideration at 4.14%, she has computed the Long Term Capital Gains, claimed, inter alia, the expenses adjusted by the Court appointed receiver against the sale proceeds as diversion of income by overriding title or in the alternative expenses incurred in relation to the sale. The Assessing Officer had disallowed the claim. Further, the Assessing Officer while computing the Long Term Capital Gains had taken the guideline value of the land as on 1.4.1981 to be the fair market value as on that date and consequently computed/restricted the indexed cost/cost of acquisition. Against such action, the assessee filed an appeal and the Ld CIT(A) dismissed it. Aggrieved against the order of the Id.CIT(A), the assessee filed this appeal.

3. The case was heard through video conferencing. The Id.AR submitted the issues on which the assessee is on appeal, has been remitted back to the AO by this Tribunal in the co-owners cases in ITA Nos.1282 & 1284/Chny/2018 dated 29.11.2018 and hence inviting our attention to relevant portions of that order pleaded that on similar

direction, the issues in the assessee's case may also be remitted back to the AO. The Id.DR has not objected to such plea.

4. We heard the rival submissions. In the co-owners cases, this Tribunal has held as under:-

*“4. We heard the rival submissions. It is clear from the orders of the lower authorities that they have not examined as to whether the impugned expenditure claimed by the assessee, arose out of a over-riding title there under. If the assessee's full ownership of a unqualified right to enjoy the property gets restricted in the parental deed, then it would create a over-riding title on the beneficiaries. These aspects require detailed examination and hence we deem it fit to remit this issue back to the AO for a fresh examination. The assessee shall lay relevant materials in support of its contention before the AO and comply with the requirements of the AO in accordance with law. The AO shall furnish adequate opportunity to the assessee and decide the matter in accordance with law.*

*5. With regard to the cost of acquisition as on 01.04.1981, various factors have to be evaluated for determining the fair market value as on a particular date viz., location of land, its potentiality, surroundings, rate of the adjacent land determined by the courts, if any, the condition of the lands, the expenditure required to develop the land, the limitations, if any viz., legal disputes as has happened in this case, eviction of unauthorized persons etc. In the very nature of things, the prices are bound to vary according to the contemporaneous economic environment, from land to land, depends upon buyer to buyer and seller to seller which includes even the reasons for which the sellers are selling the lands, the guideline value etc. Thus, the AO cannot determine the fair market value as on 01.04.1981 solely based on the guideline value. In the facts and circumstances, we deem it fit to remit this issue back to the AO for a fresh examination. The assessee shall lay relevant materials in support of its 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 matter in accordance with law.”*

Since the property and the issues are common, following the above orders, we remit these issues back to the AO with similar directions to the assessee as well as the AO on the respective issues.

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

Order pronounced on 1<sup>st</sup> December, 2020 at Chennai.

Sd/-

(वी दुर्गा राव)

(V. Durga Rao)

न्यायिक सदस्य/Judicial Member

Sd/-

( एस जयरामन )

(S. Jayaraman)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 1<sup>st</sup> December, 2020

**RSR**

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             |