

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2962/Chny/2018
निर्धारण वर्ष /Assessment Year: 2015-16

Shri P. Baskar,
No.3D, Lakshimimaa Apartments,
No.40, 4th Seaward Road,
Thiruvanmiyur,
Chennai-600 041.
[PAN: ADAPB 4101C]
(अपीलार्थी/Appellant)

Vs. The Income Tax Officer,
International Taxation, Ward-1(1),
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri S. Sridhar, Advocate
प्रत्यर्थी की ओर से /Respondent by : Shri G. Johnson, Addl. CIT
सुनवाई की तारीख/Date of Hearing : 23.03.2021
घोषणा की तारीख /Date of Pronouncement : 27.04.2021

आदेश / ORDER

PER SHRI S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-16, Chennai, in ITA No.54/CIT(A)-16/2015-16 dated 09.08.2018 for the assessment year 2015-16.

2. Shri P. Baskar, the assessee, is a non-resident and has filed his return of income for A.Y 2015-16 claiming deduction u/s. 54F of the

Income Tax Act, 1961 (in short 'the Act'). While making the assessment, the Assessing Officer (A.O) found, inter alia, that the assessee owning more than one property other than the new asset on the date of transfer of the original asset and hence held that he is not eligible for the deduction u/s. 54F of the Act. He further made an addition u/s. 56(2)(vii)(b) of the Act and completed the assessment. Aggrieved, the assessee filed an appeal before CIT(A). The Id. CIT(A) dismissed the appeal. Aggrieved against that order, the assessee filed this appeal.

3. The case was heard through video conferencing. The Ld. AR submitted that though the assessee has taken various grounds, the essential issues are on the computation of long term capital gain, allowance of deduction u/s. 54F of the Act and the addition made u/s. 56(2)(vii)(b) of the Act. The Ld. A.R invited our attention and submitted that since, the Ld. CIT(A) has decided the issue without hearing the assessee, one more opportunity may be given before the Ld. CIT(A) so that the issues are decided on merits.

4. Per contra, the Ld. D.R submitted that the Ld. CIT(A) posted the case for hearing on 26.04.2018, 30.05.2018 and 16.07.2018. But none appeared, nor represented of the case or any written submission was made to substantiate the grounds of appeal. In the circumstances, the Ld. CIT(A) correctly decided the issue and hence, he supported the order

of the Ld. CIT(A). The Id. AR submitted that the Ld. CIT(A) adjourned the matter at the instance of the C.A in the first hearing and there was no further notices issued for hearing of appeal.

5. We heard the rival submissions and gone through the relevant material available on record. The Ld. CIT(A) decided the appeal holding that he posted the case for hearing on various dates, but non appeared nor represented the case. However, the assessee pleads that the impugned appeal was decided without giving an opportunity. Therefore, it was pleaded that at last one effective opportunity of being heard before the Ld.CIT(A) would ensure deciding the issues on merits thereby substantial justice would be rendered. In the facts and circumstances, we deem it fit to set aside the order of Ld. CIT(A) and remit this issues back to the Ld. CIT(A) for fresh decision. The assessee shall furnish relevant material in support of his contention and comply with the requirements of the Ld. CIT(A) in accordance with law in such a way that the appeal is decided early. The Ld. CIT(A) on due examination of them and after affording due opportunity to the assessee decide the issues in accordance with law.

6. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced on the day of 27th April, 2021 in Chennai.

Sd/-

(धुव्वुरु आर.एल रेड्डी)
(DUVVURU RL REDDY)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(एस. जयरामन)
(S. JAYARAMAN)

लेखा सदस्य /ACCOUNTANT MEMBER

चेन्नई/Chennai, दिनांक/Dated: 27th April, 2021.
EDN, Sr. P.S

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