

आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।

IN THE INCOME TAX APPELLATE TRIBUNAL

"C" BENCH, CHENNAI

माजनीय श्री वी. दुर्गाशिव, न्यायिक सदस्य एवं

माजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।

BEFORE HON'BLE SHRI V. DURGA RAO, JUDICIAL MEMBER AND

HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.2682/Chny/2018

(निर्धारण वर्ष / Assessment Year: 2010-11)

Mrs. Leena Sunny New No.28. Old No.7/4 East Abhirampuram, 2 nd street, Mylapore, Chennai – 600 004	बनाम/ Vs.	ITO Non-corporate ward 12(4) R.No. 223, BSNL Tower-2 Greems Road, Chennai-06
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. CHQPS-1859-G		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri Mammen Mathews (CA) – Ld. AR
प्रत्यर्थी की ओर से/ Respondent by	:	Shri G. Johnson (Addl.CIT) – Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	06-01-2022
घोषणा की तारीख / Date of Pronouncement	:	31-01-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for assessment year 2010-11 arises out of the order of Ld. Commissioner of Income Tax Appeals-13, Chennai, [CIT(A)], dated 16-08-2018 in the matter of assessment framed by learned Assessing Officer (AO) u/s 143(3) r.w.s. 147 on 21-12-2017. In this appeal, the assessee is aggrieved by confirmation of addition of

Rs.64.85 Lacs. Having heard rival submissions, our adjudication would be as under.

2. In response to notice u/s 148 dated 31-03-2017, the assessee filed return of income declaring 'nil' income. It transpired that during the year the assessee purchased a property for Rs.59.49 Lacs. Accordingly, the assessee was directed to establish the source of the purchase. The assessee submitted that property was purchased on 28-05-2009 for Rs.45 Lacs. The said transaction was by way of settlement of loans due from Mrs. Lallu Benoy and her husband C.A.Benoy to assessee's husband C.A.Sunny (proprietor of pressmach). In support, the ledger account for financial year 2009-10 was produced wherein the outstanding dues were reflected as Rs.32.11 Lacs and Rs.11.20 Lacs respectively. It was submitted that aggregate loan of Rs.43.31 Lacs was adjusted against the sale consideration and the balance of Rs.1.68 Lacs was paid in cash from the amount given by assessee's husband for household expenses. It was also submitted that due capital gains were offered to tax by Mrs. Lallu Benoy on sale transaction wherein the sale consideration was shown as Rs.59 Lacs. However, rejecting the same, Ld. AO added the amount of Rs.64.85 Lacs to the income of the assessee.

3. During appellate proceedings, the submissions made by the assessee were subjected to remand proceedings wherein it was reiterated that the assessee failed to disclose the source of Rs.64.85 Lacs paid by her towards sales consideration and stamp duty, registration fees etc. Concurring with the same, Ld. CIT(A) confirmed the addition. It was observed by Ld. CIT(A) that nowhere in the sale deed, it was mentioned that the consideration of the property has been given by

the purchaser by way of referred transaction and therefore, the investment of Rs.64,85,410/- was to be assessed as unexplained investment u/s 69C of the Act. Aggrieved, the assessee is in further appeal before us.

4. In the written submissions, Ld. AR has reiterated that the property was purchased against aggregate loans of Rs.43.31 Lacs and the balance of Rs.1.68 Lacs was paid in cash which was obtained by the assessee from her husband. It has been submitted that Ld. AO added an amount of Rs.64,85,410/-. The bifurcation of the amount assessed is Rs.45,00,000/- being sale consideration mentioned in the sale deed, the excess amount fixed in the guideline value for Rs.14,49,918/-, Stamp duty paid Rs.4,75,993/- and Registration fees of Rs.59,499/-. It has been submitted that additional evidences were filed during appellate proceedings which were in the shape of affidavit of Mrs. Lallu Benoy, her husband Sh. C.A. Benoy and Bank statement of Pressmach (prop. Sh. C.A.Sunny, husband of assessee) for the period 01.04.2007 to 31.03.2010 through which the amounts were advanced to Mrs. Lallu Benoy and Sh. C.A. Benoy highlighting the flow of money advanced through bank account. The Ld. AR has summarized the source of investment as under: -

No.	Details	Amount
1.	Amt. due from Lallu Benoy prop. L.B.Engineering (the seller) in the books of Pressmach	Rs.11,20,619/-
2.	Amt. due from C.A. Benoy (the seller's husband) in the books of Pressmach	Rs.32,11,071/-
3.	Savings from Household expenses	Rs.1,68,310/-
4.	Total	Rs.45,00,000/-
5.	Stamp Duty and registration fees paid by the assessee's husband	Rs.5,35,492/-
6.	Excess of guideline value over consideration paid Rs.1,4,49,918/-	Not Paid

Having considered all the submissions, we are of the opinion that all these evidences would have material bearing on assessee's claim and the submissions have not been considered by lower authorities in correct perspective. Therefore, we set aside the impugned order and restore the matter back to the file of Ld. AO with a direction to the assessee to substantiate the source of investment made in the assessee. The Ld. AO is directed to re-examine the submission in the light of all these documents and re-adjudicate the issue in accordance with law.

5. The appeal stand allowed for statistical purposes.

Order pronounced on 31st January, 2022

Sd/-

(V. DURGA RAO)

न्यायिकसदस्य / JUDICIAL MEMBER

Sd/-

(MANOJ KUMAR AGGARWAL)

लेखासदस्य / ACCOUNTANT MEMBER

चेन्नई/ Chennai; दिनांक/ Dated : 31-01-2022

JPV

आदेशकीप्रतिलिपिअप्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR6. गार्डफाईल/GF