

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'D' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. Nos.1590/Chny/2017 & 1828/Chny/2018
निर्धारण वर्ष/Assessment Year: 2013-14

M/s. Nadeem Leatherware Exports,
No. 10/23, Covelong Muthu Street,
Periamet, Chennai 600 003.
[PAN: AA AFN3464F]

Vs. The Deputy Commissioner of
Income Tax,
Non Corporate Circle 5,
Chennai - 06.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri N. Arjunraj, C.A. and
Shri S. Sridhar, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri G. Johnson, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 15.03.2022
घोषणा की तारीख /Date of Pronouncement : 29.03.2022

आदेश / O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

Both the appeals filed by the assessee are directed against different orders of the Id. Commissioner of Income Tax (Appeals) 5, Chennai, dated 04.05.2017 under section 143(3) of the Income Tax Act, 1961 ["Act" in short] and order under section 154 of the Act dated 21.03.2018 relevant to the assessment year 2013-14.

2. Facts are, in brief, that the assessee has filed its return of income for the assessment year 2013-14 on 27.09.2013 declaring an income

of ₹.2,17,47,500/-. The assessee has filed revised return of income on 08.09.2014 admitting the same income and claiming refund of ₹.11,71,840/-. In the assessment order, the Assessing Officer has noted that the assessee has sold a property on 13.08.2012 and the sale consideration was taken at ₹.4,00,00,000/-, whereas, as per the document No. 2997/2012 of SRO, Konnur, Chennai-49, in Annexure 1-A, the market value of the land and building sold by the assessee was determined by the Registering authority at ₹.7,10,00,000/- and stamp duty and fee was collected on this amount by the State Government Authority. This value was not disputed before the Registering authority either by the purchaser or by the seller. The Assessing Officer has further noted that for capital gain purpose, the sale value has to be adopted as per section 50C of the Act and whereas the assessee has failed to do so. When the Assessing Officer pointed out to the assessee, by letter dated 27.10.2015, the assessee has requested to refer the matter to the Departmental Valuation Cell. Accordingly, the Assessing Officer referred the matter to DVO on 16.11.2016. The DVO, after making various verifications, conducting enquiries, etc., has determined the value of the land and building at ₹.7,24,16,000/- vide

his letter dated 29.02.2016. Accordingly, the Assessing Officer has adopted the sale consideration as per section 50C of the Act at ₹.7,10,00,000/- and determined the short term capital gain. On appeal, the Id. CIT(A) confirmed the order of the Assessing Officer.

3. Before us, the Id. Counsel for the assessee has submitted that the Assessing Officer, without considering the sale instances near the place, adopted the sale consideration as per SRO value is not correct. He also pointed out that when he has specifically asked sale instances nearby place, the DVO has not given any details to the assessee, but he has considered the sale instance, which is not placed on record.

4. On the other hand, the Id. DR has submitted that the Assessing Officer has completed the assessment by taking into consideration of SRO's value as per section 50C of the Act and stated that the order of the Assessing Officer is correct. He strongly supported the orders of authorities below.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including paper book filed by the assessee. The assessee has sold a property

on 13.08.2012 and the sale consideration was taken at ₹.4,00,00,000/-.

As per document, the sale consideration was ₹.7,10,00,000/-. The Assessing Officer has asked the assessee as to why the market value of the land and building determined by the Registering authority should not be applied for determining capital gain. However, the assessee has requested to refer the matter to the Departmental Valuation Cell for ascertaining the correct fair market value of the property. As per the request of the assessee, the Assessing Officer referred the matter to the DVO. The DVO, after making various verifications and conducting enquiries, has determined the value of the land and building at ₹.7,24,16,000/-. The Assessing Officer has adopted the sale consideration as per section 50C of the Act at ₹.7,10,00,000/- and determined the short term capital gain. The case of the assessee is that before the DVO, when the assessee has asked specifically the sale instances locally where the land and building is situated, without giving any such information, the DVO has determined the value of the property is not correct. We find that nowhere the assessee has stated that the sale consideration cannot be applied at ₹.7,10,00,000/- due to difficulties in the property such as no approach road, litigation, or any

other reason neither before the DVO nor before the Assessing Officer or before the Id CIT(A) or even before the Tribunal. Moreover, the assessee has no reply/explanation as to why the fair market value adopted by the SRO cannot be applied in the case of the assessee. Therefore the objection of the assessee is liable to be rejected. By considering the SRO's value and DVO's report, the Assessing Officer has adopted the SRO's value as per section 50C of the Act. We are of the opinion that in the assessment order, the Assessing Officer has correctly adopted the fair market value of the land and building at ₹.7,10,00,000/- by invoking the provisions of section 50C of the Act and the Id. CIT(A) has rightly confirmed the assessment order. Hence, we find no reason to interfere with the order passed by the Id. CIT(A). Thus, the ground raised by the assessee is dismissed.

6. So far as appeal in I.T.A. No. 1828/Chny/2018 against the order of the Id. CIT(A) passed under section 154 of the Act is concerned, the assessee preferred a rectification petition under section 154 of the Act on 01.06.2017 soon after conclusion of the appellate order of the Id. CIT(A) dated 04.05.2017 against the assessment order passed under section 143(3) of the Act dated 16.03.2016. The contention raised

before the Id. CIT(A) by way of rectification petition under section 154 of the Act is that the Id. CIT(A) has omitted to consider the valuation report of M/s. D. Parthasarathy Associates, a chartered engineer, which was submitted during the course of hearing is a mistake apparent in the Id. CIT(A)'s order and prayed for rectification. The Id. CIT(A) has rejected the above contention of the assessee on the ground that the assessee has not filed any application under Rule 46A of Income Tax Rules, 1962 in relation to the admission of additional evidence. The assessee has also not filed any evidence of having filed an application under Rule 46A of the IT Rules before the ITAT. Thus, the ground raised by the assessee is dismissed.

7. In the result, both the appeals filed by the assessee are dismissed.

Order pronounced on 29th March, 2022 at Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 29.03.2022

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.