

**आयकर अपीलीय अधिकरण 'डी' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'D' BENCH, CHENNAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ **ITA No.2347/Chny/2019**  
(निर्धारण वर्ष / **Assessment Year: 2014-15**)

<b>Ms. S. Sribala</b> New No.31, Old No.16, Neelakantha Mehta Street, T. Nagar, Chennai – 600 017.	<b>बनाम/ Vs.</b>	<b>ITO</b> Non-Corporate Ward- 21(4), Chennai.
स्थायी लेखा सं./जीआइ आर सं./ <b>PAN/GIR No. AABPS-1504-N</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	Shri G. Baskar (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Shri G. Johnson (Addl. CIT) –Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	22-03-2022
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	01-04-2022

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2014-15 arises out of the order of learned Commissioner of Income Tax (Appeals)-9, Chennai [CIT(A)] dated 27-06-2019 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) r.w.s. 147 of the Act on 28-12-2018. The grounds raised by the assessee read as under:

1. The order of the CIT(A) is erroneous, opposed to law and is merely a reiteration of the order of assessment.
- 2.1 The CIT(A) ought to have held that the reopening u/s 147 is bad in law insofar as there has been no escapement of taxable income.
- 2.2 The CIT(A) ought to have seen that there could be no reason to believe that income had escaped assessment warranting re-opening of assessment.
- 3.1 The CIT(A) erred in upholding the addition of Rs.2,70,71,209/- as Long-Term Capital Gains in respect of the lands sold by the Appellant at Varadharajapuram Village, Sriperumbudur Taluk.
- 3.2 The CIT(A) went wrong in holding the nature of lands sold is non-agricultural. The CIT(A) failed to see that not only that the said lands have been classified as 'agricultural' in all the revenue records, it has not been put to any use other than agricultural.
- 3.3 The CIT(A), having categorically noted that as per Adangal, agricultural activities were undertaken till fasli year 1424 (viz. July 2014 to June 2015), should not have held the same to be non-agricultural in nature.
- 3.4 The CIT(A) ought to have seen that the aerial distance between the lands sold and the limits of Tambaram Municipality is more than 6 Kilometres and as such is not a capital asset within the meaning of Sec.2(14) of the Income-Tax Act.
- 3.5 The CIT(A) has disposed of the appeal on irrelevant factors such as the surrounding area of the lands and the purpose of sale.
- 4.1 The CIT(A) erred in upholding the action of the AO in invoking the provisions of Sec. 50C of the IT Act.
- 4.2 The CIT(A) failed to note that the AO without affording any opportunity to the Appellant blindly adopted the guidelines value as the gross consideration and thus the same is bad in law.
5. Any other Ground/s that may be adduced at the time of hearing.

As evident, the sole subject matter of appeal is computation of capital gain on certain land sold by the assessee during the year.

2. The Ld. AR, at the outset, submitted that the land under consideration has been held to be agricultural land by the Tribunal in case of co-owner. The copy of the order passed in **ITO V/s Late T.Bhavani Devi (ITA No.1214/Chny/2019 dated 25.02.2022)** has been placed on record. The Ld. AR submitted that since the land has been held to be agricultural land, the resultant gains would be exempt from tax and other grounds have been rendered infructuous. The said position could not be disturbed by the revenue.

3. Upon careful consideration of material facts, we find that the assessee, along with co-owners, sold certain properties situated at No.111, Varadarajapuram Village, Sriperumbudur Taluk, Kancheepuram District. The sale receipts were claimed exempt on the ground that the properties were agricultural land. The total extent of land sold was 4.52 acres and the assessee's share in the sale consideration was Rs.270.97 Lacs. However as per Adangal received from Deputy Tehsildar, Kundrathur, there was no agricultural activity on the land from Pasaallandu 1423. Accordingly, Ld. AO computed capital gains of Rs.270.71 Lacs and added the same to the income of the assessee.

4. The Ld. CIT(A) rejected the claim of the assessee since there was no agricultural activity on the land. The sale value of the land aggregating to 5.79 acres was Rs.13.88 Crores which would indicate that the land was not for agricultural purposes. The transacted lands were surrounded by residential flats with close proximity to various established industries which would show that the land was not agricultural land. The first appellate order in case of T. Bhavani Devi was held to be not similar and distinguishable. Finally, the additions were confirmed against which the assessee is in further appeal before us.

5. As rightly pointed out by Ld. AR, the issue of nature of land has already been dealt with by Tribunal in the case of co-owner titled as **ITO V/s Late T.Bhavani Devi (ITA No.1214/Chny/2019 dated 25.02.2022)**. The findings of the bench were as under: -

7. We have heard rival contentions and gone through facts and circumstances of the case. We noted that the JCIT vide his directions dated 30.12.2017 has noted the fact in 8 (iii) & (iv) as under:-

8(iii)The maps above depict the outer limit of Tambaram Municipality being the nearest municipality to Varadarajapuram and also the limits of Karasangal which is an area located beyond Varadarajapuram. From the map it may be seen that a point beyond Varadarajapuram that too on the other end of Karasangal itself is only 5.65 kms from the outer limits of Tambaram Municipality, when measured aerially.

(iv)Further it can be very clearly conferred from the above map that Varadarajapuram is only 4.17 kms from the outer limit of Tambaram Municipality, when measured aerially.

From the above, it is clear that the JCIT has calculated the aerial distance of Varadarajapuram village from the outer limit of Tambaram Municipality measured aerially as seen from the google map positioning of GPS. Further, we noted that in the same directions, the JCIT has referred to one letter of Tahsildar dated 22.12.2017, wherein the Revenue Tahsildar has only made approximation of the land in question from the outer limit of Tambaram Municipality. The relevant para 4 reads as under:-

“4. The return filed in response to the notice u/s.148 was taken up for scrutiny by issue of a notice u/s.143(2). Subsequently notices were issued u/s.142(1) calling for specific details and documents in response to which the assessee Shri S. Balasubramaniyan appeared and submitted details & documents before the assessing officer. The assessee had submitted a copy of a letter from Village Administrative Officer (VAO) of Varadarajapuram village, dated 22/11/2017 in which the VAO has stated that the land in question is situated within 7 kms from outer limits of Tambaram municipality. On the other hand, the assessing officer vide notice u/s 133(6) dated 22/11/2017 sought certain details of the land from the Tahsildar, Sriperumbudhur Taluk. In response to the above notice, the Tahsildar vide letter dated 22/11/17 made submissions. In the said submission, the Tahsildar has stated that the land in question is situated within 4 Km approximately from the outer limits of Tambaram Municipality.”

7.1 We have also gone through the web documents filed by assessee in her paper-book at pages 1 to 3 and particularly page 3, the land in question, when measured aerially the distance from outer limit of Tambaram Municipality is 8.14 kms (5.06 miles). Even the VAO vide his certificate dated 22.11.2017 has certified that the aforementioned land is situated beyond 7 kms from Tambaram Municipality. In entirety of facts and going through these evidences we are of the view that the land situated in village Varadarajapuram is beyond 6 kms of outer limit of Tambaram Municipality. Hence, we are of the view that the aforesaid land was not taxable because land did not fall within the distance of 6 kms from the outer limit of Tambaram Municipality measured aerially. Hence, we find no infirmity in the order of CIT(A) and the same is confirmed.

8. In the result, the appeal filed by the Revenue is dismissed.

Thus, in the case of co-owner, the land has been held to be agricultural land. This being so, we see no reason to take a different view in the case of assessee before us. Respectfully following the

same, we would hold that the land was an agricultural land and the resultant gains were exempt from tax. All the other grounds have been rendered infructuous. The impugned additions stand deleted.

6. The appeal stands allowed in terms of our above order.

Order pronounced on 01<sup>st</sup> April, 2022

**Sd/-**  
**(MAHAVIR SINGH)**  
**उपाध्यक्ष / VICE PRESIDENT**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
**लेखा सदस्य / ACCOUNTANT MEMBER**

चेन्नई / Chennai; दिनांक / Dated : 01-04-2022  
EDN/-

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded 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