

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' 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. No. 1762/Chny/2019
निर्धारण वर्ष/**Assessment Year:2012-13**

Smt. Geetha Sekar,
SP-20, 3rd Street, 1st Sector,
K.K. Nagar, Chennai 600 078.

[PAN:AHIPG0190N]

The Income Tax Officer,
Vs. Non Corporate Ward 13(4),
Room No. 406, IVth Floor, Annexe
Building, Aayakar Bhavan, No. 121,
M.G. Road, Nungambakkam,
Chennai 600 034.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri G. Gopalan, Retd. JCIT
प्रत्यर्थी की ओर से/Respondent by : Shri P. Sajit Kumar, JCIT
सुनवाई की तारीख/ Date of hearing : 31.03.2022
घोषणा की तारीख /Date of Pronouncement : 08.06.2022

आदेश /O R D E R

PER V. DURGA RAO,, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 7, Chennai, dated 31.03.2019 relevant to the assessment year 2012-13.

2. Brief facts of the case are that the assessee filed her return of income for the assessment year 2012-13 on 12.12.2012 admitting total income of ₹.8,15,920/-. The return filed by the assessee was processed under section 143(1) of the Income tax Act, 1961 ["Act" in short].

Subsequently, the case was selected for scrutiny and notice under section 143(2) of the Act dated 12.08.2013 was issued. Further notice under section 142(1) of the Act along with questionnaire was issued to the assessee and the assessment was completed under section 143(3) of the Act dated 28.03.2015. During the course of assessment proceedings, the Assessing Officer has noticed that during the year under consideration, on the date of 14.9.2011, a sale deed was registered in the name of the assessee, (the vendor being her husband) for a consideration of ₹.75,00,000/-. The market value of the said property was ₹.1,21,57,200/-. The Assessing Officer perused the Sale Deed, which revealed that the mode of payment was not mentioned in the Sale Deed. On questioning the assessee, how and when the amount was paid?, the assessee vide her letter dated 06.2.2015, stated before the Assessing Officer that she had not paid any amount for acquiring the property and it was only a transfer evolved on her from her husband out of love and affection without any consideration. She had also stated that the said property was acquired by her husband Sri. V. Sekar on 15.12.98 from one Sri. S.V. Rajagopal, partner of M/s. Cotwear Group Exports for a consideration of ₹.12,56,320/-. On 11.03.2015, the Assessing Officer issued a show cause notice calling for her explanation as to why an amount of ₹.75,00,000/- be treated as unexplained investment under

section 69 of the Act. The assessee vide her reply dated 24.3.2015 reiterated the reply stated vide her letter dtd.06.02.2015 and also filed a confirmation letter dated 23.03.2015 from her husband to the extent along with a Indemnity Bond declaring that "the said consideration will not be claimed as cost of purchase or any mode in future, if decided to dispose off the property". The Assessing Officer has not accepted the reply submitted by the assessee for the reason that the above sale is a Pucca Sale as the assessee had paid Stamp duty on the market value of the property of ₹.1,21,57,200/-, possession and the Title of the property was transferred in the assessee's name. Hence, the Assessing Officer treated the purchase consideration of ₹.75,00,000/- being the value of investment as deemed to be the income of the assessee as unexplained investment under section 69 of the Act and brought to tax. On appeal, the Id. CIT(A) confirmed the disallowance and dismissed the appeal filed by the assessee.

3. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the assessee's husband was a power of attorney holder of the property and could not convey the property as an agent and therefore, to avoid future litigation and to secure better title over the property, a sale deed in favour of the

assessee, being the wife was executed. As there was no other way of conveyance, a sale deed was executed without getting any consideration from the spouse. It was further submitted that the sub-registrar insisted to mention the consideration both for contractual purpose and for stamp duty valuation, the sale consideration of ₹.75.00 lakhs was mentioned in the conveyance deed and prayed for deleting the addition.

4. On the other hand, the Id. DR has submitted that the sale consideration mentioned in the registered sale deed towards transfer of property cannot be ignored and cannot be claimed that no sale consideration has been received.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. We have also gone through the registered sale deed, which is part of appellate order, wherein, it has been clearly mentioned that Shri S.V. Rajagopal, represented by his Power Agent Shri V. Sekar as Vendor executed the sale deed, which was duly registered in SRO, Neelankari, in favour of Smt. Geetha Sekar, the assessee towards transfer of scheduled property for a sale consideration of ₹.75,00,000/- and the vendor also admitted and acknowledged the receipt of the sale consideration. In the appellate order, the Id. CIT(A) has observed that if we go by the narrations in the

Sale deed, then the assessee's claim that the impugned transaction is a "family transaction" where no consideration has passed is liable to be rejected since the actual vendor of the impugned property is not Mr. V. Sekar, as is claimed, but Mr. S.V. Rajagopal is the actual owner of the property and Mr. V. Sekar is only the power agent acting on behalf of Mr. S.V. Rajagopal. Therefore, the Id. CIT(A) was of the opinion that the transaction is not a "family transaction" as is being claimed. The Id. CIT(A) has further observed that even if it is presumed for a moment that the vendor is Mr. V. Sekar, husband of the assessee, the claim that the sale consideration of ₹.75.00 lakhs was not received by the vendor is unproved and is difficult to believe in the light of the fact that the Sale Deed expressly states the facts to the contrary. Thus, we find no infirmity in the order passed by the Id. CIT(A) on this issue and accordingly, the ground raised by the assessee is dismissed.

6. The next ground raised in the appeal of the assessee relates to confirmation of disallowance of ₹.1,98,000/-. During the course of assessment proceedings, the Assessing Officer has asked the assessee to explain and reconcile the gross receipts with bank account of ₹.2,20,000/-. Before the Assessing Officer, the assessee has explained that the gross receipts of ₹.2,20,000/- was accumulated rental income

received and deposited in the bank account on 08.01.2012 of ₹.1,72,000/- and on 15.03.2012 of ₹.50,000/-. However, the Assessing Officer has not accepted the reply and only allowed two month rent i.e. (₹.12000 x 2) and the balance of ₹.1,98,000/- was disallowed and treated as income by stating that a businessman will not keep the rent received ideal. On appeal, the Id. CIT(A) confirmed the disallowance. We also find no error in the orders of authorities below on this issue and dismiss the ground raised by the assessee.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on the 08th June, 2022 in Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 08.06.2022

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.