

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

श्री महावीर सिंह, माननीय उपाध्यक्ष, एवं
श्री जी. मंजूनाथा, माननीय लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.174/Chny/2020
निर्धारण वर्ष /Assessment Year: 2014-15

Mr.R.Vasimalai,
1, Elumalai Post,
Chinnasamy St.,
Peraiyur,
Madurai-625 535.
[PAN: ADTPV 9248 H]
(अपीलार्थी/Appellant)

v. The Income Tax Officer,
Non-Corporate Ward-3(5),
Madurai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr.N. Arjunraj,
for Mr.S.Sridhar, Adv.
प्रत्यर्थी की ओर से /Respondent by : Mr.Hema Bhupal, JCIT
सुनवाई की तारीख/Date of Hearing : 26.07.2022
घोषणा की तारीख /Date of Pronouncement : 26.07.2022

आदेश / ORDER

PER G. MANJUNATHA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-1, Madurai, dated 18.11.2019 and pertains to assessment year 2014-15.

2. The assessee has raised the following grounds of appeal:

1. *The Order of the CIT(A) as well as the Assessing Officer is not correct and is against the facts and circumstances of the case and against the legal provisions of law.*
2. *The additions made and confirmed by CIT(A) in this assessment represents 50% share of alleged purchase value of property at i.e., Rs. 34,01,584/-. There is no actual purchase made by the Appellant and no sale consideration was passed on to the seller.*

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3. *In the sale deed executed, the Appellant's name was included to protect legal disputes for the transfer the property in the name of Sri Raja ram, who is one of the co-owners.*

4. *There is a financial transaction between Sri Ramaraj and Sri Kathiresan and Sri C. Ramaraj had given funds to Sri P. Kathiresan, for which Power of Attorney was executed as a security and later on the property could not be sold by Sri C. Ramaraj immediately and realize the loans given. In order to protect his interest Sri C. Ramaraj had executed the sale deeds in favour of his son, Sri C. R. Rajaram. On the advice of the legal counsel, in order to protect the future disputes and litigation, the Appellant's name also was included in the said Purchase Deed, as he is the best friend of Sri C.R. Rajaram.*

5. *The Appellant had explained the above facts and submitted the copies of receipts obtained from Sri P. Kathiresan by C. Ramaraj as well as the copy of the Power of Attorney. Further, the affidavit obtained from Sri C.Ramaraj and C.R.Rajaram were also furnished to confirm the fact of not having given the funds by the Appellant.*

6. *Since the Appellant had not invested any funds, he is not having any share of interest in the property. Therefore, the question of treating the source of investments in the abovesaid property as well as the difference between the registered value and guideline value as income of the appellant is not correct and is objected to.*

7. *For these and other grounds that may be adduced at the time of hearing, it is prayed the additions made and tax levied thereon and related interest on the said tax may be deleted and justice rendered.*

3. The brief facts of the case are that the assessee is an individual and is carrying on the profession as an LIC agent. The assessee has filed its return of income for the AY 2014-15 on 29.11.2014 declaring total income at Rs.4,75,310/-. The case was taken up for scrutiny. During the course of assessment proceedings, the AO noticed that assessee had purchased property along with co-owner, Mr.C.R.Rajaram, for a consideration of Rs.36 lakhs. However, the guideline value of the property for the purpose of stamp duty was fixed at Rs.68,03,167/-. Therefore, the AO has taken difference between guideline value of the property and consideration paid for purchase of property and made addition u/s.56(2)(vii)(b)(ii) of the Act, Rs.34,01,584/- as unexplained investment. The assessee carried the matter in appeal before the First Appellate Authority, but could not succeed. The Ld.CIT(A) for the reasons stated in his appellate order, sustained the

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additions made by the AO. Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before us.

4. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. The facts borne out from the record are indicate that the assessee had purchased property along with co-owner, Mr.C.R.Rajaram, for a consideration of Rs.36 lakhs and the guideline value of the property as per the stamp duty authorities was at Rs.68,03,167/-. The AO has made addition u/s.56(2)(vii)(b)(ii) of the Act, towards difference between guideline value and consideration paid for purchase of property as unexplained investment. The Ld.CIT(A) has sustained the additions made by the AO. We find that similar addition has been made in the hands of co-owner, Mr.C.R.Rajaram, and appeal filed by the co-owner, is pending before the Ld.CIT(A). Therefore, we are of the considered view that when the very same issue is considered in the hands of the two assessees on the issue of difference between guideline value and consideration paid for purchase of property as per the provisions of Sec.50C of the Act, in our considered view, the appeals filed by both the assessees needs to be decided simultaneously, because, the decision taken in one case may have bearing on the other appeal filed by the co-owner. Since the appeal filed by the co-owner is pending before the Ld.CIT(A), we deem it appropriate to set aside this appeal filed by the assessee to the file of the Ld.CIT(A) and direct the Ld.CIT(A) to decide both the appeals

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simultaneously and decide the issue involved in the appeals in accordance with law.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 26th day of July, 2022, in Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

Sd/-
(जी. मंजूनाथा)
(G. MANJUNATHA)
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,
दिनांक/Dated: 26th July, 2022.
TLN

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