

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

श्रीमहावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्यके समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A No.:75/CHNY/2022

निर्धारण वर्ष/ Assessment Year 2015 - 2016

Smt. K.M. Begam,  
LR of Mohamed Abdul Khader,  
No.347, Big Bazaar Street,  
Coimbatore – 641 001.

**PAN : AEEPL 4002L**

(अपीलार्थी/ Appellant)

The Principal Commissioner of  
Income Tax,  
No.63A, Race Course Road,  
Coimbatore – 641 018.

Vs.

(प्रत्यर्थी/ Respondent)

अपीलार्थीकीओरसे/Appellant by  
प्रत्यर्थीकीओरसे/Respondent by

: Mr. R. Vijayaraghavan, Advocate  
: Mr. Guru Bashyam, CIT-DR

सुनवाई की तारीख/Date of Hearing

: 03.08.2022

घोषणा की तारीख/Date of Pronouncement

: 03 .08.2022

**आदेश /ORDER**

**PER MAHAVIR SINGH, VP:**

This appeal by the Assessee is arising out of the revision order passed by the Principal Commissioner of Income Tax-1, Coimbatore vide order No.C.No.120/44/PCIT-1/2019-20; dated 06.03.2020 u/s.263 of the Income Tax Act, 1961 (hereinafter "the Act"). The Assessment was framed by the Income Tax Officer, Non-Corporate Ward – 1(3), Coimbatore for the Assessment Year 2015 – 2016 u/s.143(3) of the Act vide order dated 27.11.2017.

2. The only issue in this appeal of the Assessee is as regards to the revision order passed by the Principal Commissioner of Income Tax u/s.263 of the Act revising the assessment framed by the Assessing Officer u/s.143(3) of the Act for the Assessment Year 2015 – 2016.

3. At the outset, it is noticed that the appeal of the Assessee is barred by limitation by 637 days and Assessee has filed a condonation petition supported by an affidavit. The order of the PCIT revising the assessment u/s.263 of the Act was received by the Assessee on 06.03.2020 and that the appeal was supposed to be filed on or before 04.05.2020 but the appeal was actually filed on 01.02.2022. It seems that the period falling under limitation is during the outbreak of 'Covid-19' pandemic. Hence, the Hon'ble Bench took into cognizance the Order of the Hon'ble Supreme Court the "Suo Moto WP 03/2020 dated 20.03.2020 while considering the condonation of delay. It is a fact that 'Covid-19' pandemic was prevalent during the period and in term of the directions issued by the Hon'ble Supreme Court in Miscellaneous Application No.21/2022 in Suo Motu Writ Petition No.3 of 2020, we condone the delay of 637 days and admit the appeal for adjudication on merits.

4. We have heard the rival contentions and had gone through the facts and circumstances of the case. We noted that the assessment framed by the Assessing Officer is a 'limited scrutiny' case for verification of the deduction from the capital gains claimed by the Assessee. The Assessing Officer noted that during the Financial Year 2014 – 2015 relevant to the Assessment Year 2015 – 2016, the Assessee had sold his house property with a plot of land measuring 1945 Sq.Ft., Ground Floor and 1307 Sq.Ft of the First Floor for a total consideration of Rs.2.05 crores. The Assessee claimed deduction u/s.54 of the Act and claiming to have invested a sum of Rs.1.30 cores in construction of a residential property. The Assessing Officer deputed an Inspector for verification and the Assessing Officer reported that the Assessee had constructed a residential house in the second and third floor of the existing building to the extent of about 2600 Sq.Ft. and 1500 Sq.Ft. respectively. The Assessee has claimed deduction u/s.54 of the Act at Rs.1.30 crores; whereas the Assessee furnished an evaluation report from the registered Evaluator; wherein the actual cost shown is Rs.1,03,55,000/-. Hence, the differential amount of the claim of deduction of Rs.28,45,000/- was added to the returned income of the Assessee.

The Assessing Officer examined the claim of deduction u/s.54 of the Act.

5. Subsequently, the Principal Commissioner of Income Tax issued a show-cause notice for the reason that the Assessee's claim of Rs.26,85,902/- towards the cost of improvement is not supported by any material evidences and also that the rental admitted by the Assessee at Rs.60,000/- under the head 'income from house property' was prima facie on the lower side, keeping in view the locality and the properties let out which would fetch more rental income than admitted. Accordingly, a show-cause notice dated 14.02.2020 was issued.

6. The Assessee did not reply before the Principal Commissioner of Income Tax and the PCIT directed the Assessing Officer to frame the reassessment after verification of the facts as discussed above and set aside the assessment order accordingly.

Aggrieved, now the Assessee is in appeal before the Tribunal.

7. Before us, the learned Counsel for the Assessee filed the notice issued u/s.143(2) of the Act by the Department for framing of the assessment u/s.143(3) of the Act and this notice dated 18.09.2017 is filed in the Assessee's paper-book at Page No.8.

The learned Counsel for the Assessee drew our attention to this notice and stated that this is a "Limited Scrutiny" under the Computer Aided Scrutiny Selection [CASS] and the following issue(s) was identified for examination, reads as under:

*"Following issue(s) have been identified for examination:*

*i. Whether deduction from capital gains has been claimed correctly."*

8. The Assessing Officer after examining the claim from capital gains passed the assessment order which is neither erroneous nor prejudicial to the interest of the Revenue for the reason that even in the subsequent Assessment Order that was passed by the Assessing Officer; it was passed while giving effect to the order of the revision u/s.143(3) of the Act read with Section 263 of the Act accepting the claim of the Assessee.

9. The learned Counsel for the Assessee stated that this issue of rental income under the head 'income from house property' was less admitted at Rs.60,000/- and was never before the Assessing Officer during the course of the limited scrutiny assessment and hence, this cannot be a subject matter of revision u/s.263 of the Act.

10. We have gone through the original assessment order and the show-cause notice issued u/s.143(2) of the Act by the Department on 18.09.2017 and noted that the limited scrutiny was for the purpose of examining the claim of deduction from the capital gains and no other issue was there. Hence, we are of the view that this issue now cannot be examined while proceeding u/s.263 of the Act making revision to the assessment order. Hence, the scrutiny assessment is only for a limited issue, that was a claim of deduction u/s.54 of the Act which has been accepted by the Assessing Officer and even in the order giving effect to the order of the Principal Commissioner of Income Tax u/s.263 of the Act, the Assessing Officer has accepted the stand of the Assessee. Hence, according to us, the revision order on this issue is just academic and nothing more.

11. As regards to the second issue which was never before the Assessing Officer during the course of the original assessment and that the assessment was for a limited scrutiny, the issue of rental income cannot be examined in the revision proceedings. Hence, according to us, this issue on rental income is decided in favour of the Assessee and to that extent the revision order is quashed.

12. As regards to the revision order on the claim of deduction u/s.54 of the Act, the Assessing Officer has already examined the issue and the issue only remains academic.

13. In the result, the appeal of the Assessee in I.T.A No.:75/CHNY/2022 is partly allowed.

Order pronounced in the court on 3<sup>rd</sup> August, 2022 at Chennai.

**Sd/-**

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**

लेखा सदस्य/ACCOUNTANT MEMBER

**Sd/-**

(महावीर सिंह )

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 3<sup>rd</sup> August, 2022

IA, Sr. PS

आदेशकीप्रतिलिपिअग्रेषित/**Copy to:** 1. अपीलार्थी/Appellant  
2. प्रत्यर्थी/Respondent  
3. आयकरआयुक्त (अपील)/CIT(A)  
4. आयकरआयुक्त/CIT  
5. विभागीयप्रतिनिधि/DR  
6. गार्डफाईल/GF