

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

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

**I.T.A No.:131/CHNY/2021
Assessment Year: 2011 - 2012**

Shri. Rajaram Gokula Kannan,
No.72, Cinema Nagar,
Salem – 636 009.
Tamil Nadu

The Assistant Commissioner of
Income Tax,

Vs. Circle – 1,
No.3, Gandhi Road,
Salem – 637 007.

PAN : AHAPG 1260F

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: None
: Mr. M. Rajan, CIT-DR

सुनवाई की तारीख/Date of Hearing : 14.09.2022
घोषणा की तारीख/Date of Pronouncement : 14.09.2022

आदेश /ORDER

PER MAHAVIR SINGH, VP:

This appeal by the Assessee is arising out of the revision order of the Principal Commissioner of Income Tax, Coimbatore – 1, u/s.263 of the Income Tax Act, 1961 (hereinafter "the Act") in revision order No. PCIT, Coimbatore-1/Revision-263/100000153287/2020; order dated 22.02.2021. The assessment was framed by the Deputy Commissioner of Income Tax, Circle – 1, Salem for the Assessment Year 2011 – 2012, u/s.143(3) r.w.s.147 of the Act vide order dated 10.12.2018.

2. At the outset, it is noticed that this appeal came up for hearing on 09.05.2022 for the first time before the Bench and none was present from the Assessee's side despite issuing of notice and served on the given address of the Assessee. Again the matter was adjourned for 22.06.2022, but on that day the Bench did not function and thus the matter was adjourned to 04.08.2022. Again the notice through RPAD was issued to the Assessee but none was present on the day of hearing and the matter was again adjourned to 14.09.2022; i.e. today. Today, when this matter was called up for hearing, none was present from the Assessee's side. However, it is noticed that the notice that was sent through RPAD to the Assessee had returned back un-served with a remark as "Unclaimed, returned to sender" and the second reason as "Door Locked".

3. We have gone through the Form No.36 and noticed that the notice was issued to the correct address of the Assessee but there was nobody to receive the same and the Assessee has not given us his fresh address. Hence, we are hearing this case as ex-parte, qua the Assessee.

4. The brief facts are that the original assessment was completed by the Deputy Commissioner of Income Tax, Salem, u/s.143(3) vide order dated 10.12.2018, but subsequently the Principal Commissioner of Income Tax, Coimbatore issued a show-cause

notice for revising the assessment u/s.263 of the Act for the reason that the capital gains offered by the Assessee, being Assessee's 50% share in the land admeasuring five [5] acres sold which is situation at Thazambur Village in Survey No.83/4B. According to the Principal Commissioner of Income Tax, the guideline value of the above property as per the "TNRLGINET", per acre is at Rs.1,67,50,000/- and thereby the total value becomes Rs.8,37,50,000/-; whereas the sale consideration offered was at Rs.4.5 crores. For this, the Principal Commissioner of Income Tax had issued a show-cause notice as observed in paragraph No.2.1, as under:

"2.1. On a perusal of records, it is noticed that you along with your brother R. Mohan had sold an immovable property, viz. vacant land measuring five acres situated at Thazambur Village in Survey No.83/4B for a sale consideration of Rs.4.5 crores and offered a capital gain of Rs.68,16,665/-. The guide line value of the above property as per TNRLGINET, (property transferred by the Assessee and his brother) was Rs.1,67,50,000/- per acre, i.e. Rs.8,37,50,000/- which was quiet higher than the sale consideration of Rs.4.5 crores offered by the Assessee. The TNRLGINET Guideline value of Rs.8,37,50,000/- indexed cost of acquisition of Rs.2,56,03,399 = Rs.5,81,46,601/-. An amount of Rs.4,4513,270 being the difference amount (Rs.5,81,46,601 - Rs.1,36,33,331) needs to be taxed in the hands of the Assessee (50%) and his brother R. Mohan [PAN : AIFPM 2485A]."

5. Further, the Principal Commissioner of Income Tax consequently directed the Assessing Officer to verify, as the stamp valuation has to be considered as per the provisions of Section 50C of the Act, and thereby the revision order was passed and the assessment was set aside by giving the following directions as observed in paragraph Nos.12 to 15 of the order of the PCIT.

"12. The guide line valuation of the stamp valuation authority, available on file is also perused. Clearly, the Assessing Officer has failed to enquire and verify the crucial aspect of valuation as fixed by the stamp valuation authority before determining the sale consideration, a vital parameter for determination of the Capital Gain accruing to the Assessee.

13. As per Section 50C of the Act, where the consideration received or accruing as a result of a transfer by an Assessee of a capital asset, being land or building or both is less than the value adopted or assessed or assessable by the stamp valuation authority, for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall for the purpose of Section 48 of the Act be deemed to be the full value of the consideration received or accruing as a result of such transfer.

14. In view of the foregoing paras, it would be clear that the Assessing Officer by not adopting the guide line valuation of the stamp valuation authority as the deemed full value of the consideration has erred and hence rendered the order of the assessment erroneous and prejudicial to Revenue. The order of the Assessing Officer, u/s.143(3) r.w.s.147 dated 10.12.2018 is hereby set aside in exercise of the powers vested with me under section 263 of the Act.

15. Therefore, a fresh assessment in lieu of the order of the assessment for the assessment year 2011 - 2012 made u/s.143(3) r.w.s.147 dated

10.12.2018 in the case of Shri R. Gokulkannan is to be done taking into consideration all the discussions above.”

6. We find no infirmity in the directions of the Principal Commissioner of Income Tax and accordingly the order of the Principal Commissioner of Income Tax is confirmed and the appeal of the Assessee is dismissed.

7. In the result, the appeal of the Assessee in I.T.A. No.131/Chny/2021 is dismissed.

Order pronounced in the court on 14th September, 2022 at Chennai.

Sd/-

(जी मंजूनाथा)

(G. MANJUNATHA)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 14th September, 2022

IA, Sr. PS

आदेश की प्रतिलिपि □ ग्रेषित/**Copy to:** 1. □ पीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (□ पील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF