

IN THE INCOME TAX APPELLATE TRIBUNAL
'A/SMC' BENCH, CHENNAI

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य के समक्ष।
BEFORE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.161/Chny/2022
(निर्धारण वर्ष / **Assessment Year: 2008-09**)

Shri Nitin Shamji Shah 19, Amman Sannathi, Mudurai – 625 001.	बनाम/ Vs.	ITO Non-Corporate Ward-2(5), Madurai.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AHKPS-3011-L		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri N. Arjunraj (CA) for Shri S. Sridhar (Advocate) – Ld. ARs
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri D. Hema Bhupal (JCIT)-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	19-09-2022
घोषणा की तारीख / Date of Pronouncement	:	19-09-2022

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2008-09 arises out of the order of learned Commissioner of Income Tax (Appeals)-2, Madurai [CIT(A)] dated 20-11-2019 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.143(3) r/w s. 147 of the Act on 27-03-2013. The sole issue in the appeal is computation of capital gains.

2. The registry has noted a delay of 785 days in the appeal, the condonation of which has been sought by Ld. AR on the basis of condonation petition dated 21.07.2022. The Ld. AR has submitted that

the appeal could not be filed due to lockdown situation arising out of Covid-19 Pandemic. After excluding the period of exclusion, the effective delay was for 56 days only. The Ld. Sr. DR opposed the condonation of delay. However, accepting the pleadings of Ld. AR, I condone the delay and admit the appeal for adjudication on merits.

3. The Ld. AR, at the outset, submitted that the property was jointly owned by the assessee along with her wife. The Ld. AR placed on record a copy of order passed by Tribunal in the case of assessee's wife Smt. Nayna Nitin Shah in ITA No.2808/Chny/2019 dated 08.11.2021 wherein the issue has been restored back to the file of Ld. CIT(A). The Ld. AR submitted that this appeal may also be restored back to the file of Ld. CIT(A) to enable to revenue to take consistent stand in the matter.

4. I find that the assessee admitted capital gain of Rs.3.39 Lacs for sale of certain property. The Ld. AO applied the provisions of Sec. 50C and rejected the claim of the assessee that the property was agricultural land. The Id. CIT(A) confirmed the stand of Ld. AO. Aggrieved, the assessee is in further appeal before me.

5. With a view to enable the revenue to take consistent stand in the matter, I accept the argument of Ld. AR and restore the appeal back to the file of Ld. CIT(A) for fresh adjudication in line with the adjudication done in assessee's wife case. The assessee is directed to substantiate its case.

6. The appeal stands allowed for statistical purposes.

Order pronounced on 19th September, 2022.

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

चेन्नई / Chennai; दिनांक / Dated : 19-09-2022
EDN/-

आदेश की प्रतिलिपि ँ ग्रेषित/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