

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

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

आयकर अपील सं./ITA No.: 270/CHNY/2020

निर्धारण वर्ष/Assessment Year: 2015-16

**Smt. Sugirda Dinakar,**  
No.2, 4<sup>th</sup> Cross Street,  
SVS Nagar,  
Valasarawakkam,  
Chennai – 600 087.

**The Income Tax Officer,**  
vs. Non Corporate-Ward 8(1),  
Chennai.

**PAN: BDNPS 7756J**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri D. Anand, Advocate  
: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 10.10.2022

घोषणा की तारीख/Date of Pronouncement

: 12.10.2022

**आदेश /O R D E R**

**PER MAHAVIR SINGH, VICE PRESIDENT:**

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-9, Chennai in ITA No.62/CIT(A)-9/2017-18 dated 29.11.2019. The assessment was framed by the Income Tax Officer, Non-Corporate Ward 8(1),

Chennai for the assessment year 2015-16 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 30.12.2017.

2. The only issue in this appeal of assessee is as regards to the order of CIT(A) confirming the addition made by the AO to the extent of Rs.98.20 lakhs u/s.56(2)(vii)(b)(ii) of the Act on account of alleged difference between the value fixed by the stamp duty authorities on the sale deed registered and the sale consideration recorded in the sale deed.

3. Brief facts are that the assessee has purchased three properties and the details in regard to address of property, value / consideration noted in the documents i.e., sale deed and the value determined by stamp valuation authority is as under:-

Doc. No. & Date	Description	Regd. Value	Stamp duty Value
1069/2015 12.02.2015	Plot No.343, 2660 sq.ft., paid through cheque dt.12.02.15- ICICI POA-Nishanth	10,00,000	53,20,000
1070/2015 12.02.2015	Plot No.289 & 303, 4880 sq.ft., paid through cheque dt.12.02.15- ICICI POA-Nishanth	30,00,000	96,00,000
1614/2015 02.03.2015	Plot No.317 & 324, 4950 sq.ft., paid in cash – POA – Sridhar	45,00,000	99,00,000
	Total	85,00,000	2,48,20,000
Difference between registered value and guide line value			1,63,20,000

The AO referred the matter to District Valuation Officer (DVO) dated 17.10.2017 as the assessee did not raise any objection before the Sub Registrar concerned for adopting the stamp duty valuation as the market value. The AO did not receive valuation report till date and completion of assessment and hence, pending receipt of valuation report from the DVO, the assessment was completed by making addition of this differential amount of Rs.1,63,20,000/- added u/s.56(2)(vii)(b)(ii) of the Act. Aggrieved, assessee preferred appeal before CIT(A).

4. The CIT(A) taken the documented consideration at Rs.1.50 crores as against adoption by AO at Rs.85 lakhs while making addition u/s.56(2)(vii)(b)(ii) of the Act, thereby the CIT(A) partly raised the purchase consideration as explained to the extent of Rs.65 lakhs and deleted the addition and differential amount was retained to the extent of Rs.98.20 lakhs. Thereby the CIT(A) sustained the addition to the extent of Rs.98.20 lakhs under the head 'income from other sources' u/s.56(2)(vii)(b)(ii) of the Act. Aggrieved, assessee is in appeal before the Tribunal.

5. We have heard rival contentions and gone through facts and circumstances of the case. We noted that the assessee has paid

consideration of Rs.1.5 crores for purchase of the above property. We noticed from the orders of the authorities below that the total purchase consideration of Rs.1.05 crores was paid by Shri Nishanth, the spouse of the assessee and balance Rs.45 lakhs was paid by assessee to Shri P. Sridhar. It is to be clarified that assessee's husband Shri Nishanth paid this sum of Rs.1.05 crores to Shri Ramu, the holder of the agreement with the property owner. Hence, there is no dispute that the total consideration paid by assessee is Rs.1.50 crores. It is also fact that the stamp duty valuation made by state authorities for ascertaining the circle rate u/s.50C of the Act was Rs.2,48,20,000/- and this property was referred to DVO for ascertaining the fair market value of the property. Before the completion of assessment, the DVO could not finalize the valuation and the same was valued at Rs.2,52,66,760/- as against guideline value of the property at Rs.2,48,20,000/- adopted by the stamp valuation authority. The CIT(A) has taken the guideline value adopted by stamp valuation authority for this property at Rs.2,48,20,000/- for the purpose of making addition of Rs.56(2)(vii)(b)(ii) of the Act. Thereby the CIT(A) sustained addition of Rs.98.20 lakhs. Now, before us the Id.counsel for the assessee made only one submission that no opportunity was given by the DVO to counter his valuation made at Rs.2,52,66,760/-.

According to Id.counsel, the CIT(A) received this valuation but he was never allowed to substantiate the same before DVO. The Id.counsel stated that there was downward revision made by Registration Department of Land and Building Valuation and guideline value was reduced from 3000 per square feet to 2010 per square feet vide revised guideline value as per the notification issued by Inspector General of Registration, Tamil Nadu and this is available on the website of the State Registration Department. The assessee has submitted a comparative guideline value as on 2015 relates to assessment year 2015-16, which was revised downward vide guideline value from 2017 and the comparative details filed by assessee's counsel reads as under:-

Doc. No. & Date	Guideline value as on 2015	Guideline value as on 2017	Regd. Value
Sale deed 1069/2015 12.02.2015 – 2660 Sq.ft.	Rs.79,80,000/-	Rs.53,46,600/-	Rs.10,00,000
Sale deed 1070/2015 12.02.2015 – 2400 Sq.ft.	Rs.72,00,000/-	Rs.48,24,000/-	Rs.30,00,000
Sale deed 1614/2015 02.03.2015 – 2475 Sq.ft.	Rs.74,25,000/-	Rs.49,74,750/-	Rs.45,00,000
<b>Total</b>	<b>Rs.2,26,05,000/-</b>	<b>Rs.1,51,45,350/-</b>	<b>Rs.85,00,000</b>

The Id.counsel for the assessee stated that in case, the revised guideline value is to be considered and the same can be confronted to the DVO for reconsideration of valuation report prepared by him and for allowing one more opportunity to assessee, the assessee can prove that the value is within the permissible limit i.e., a little higher than the sale consideration adopted in the sale deed at Rs.1.50 crores as per guideline value fixed from 2017 by the State Registration Department, the consideration will be Rs.1,51,45,350/- .The differential amount will only be Rs.1,45,350/-.

6. When these facts were confronted to Id. Senior DR, he only stated that the guideline value is to be adopted as on the date of registration of sale deed and not the downward guideline value fixed by the state authorities on a subsequent date i.e., in 2017.

7. We have considered the arguments of both the sides and the facts of the case and noted that the limited issue before us is whether the revised guideline value which is downward revision should be considered for the purpose of valuation of the property for making assessment u/s.56(2)(vii)(b)(ii) of the Act. We are of the view that for the purpose of making addition u/s.56(2)(vii)(b)(ii) of

the Act, is the stamp duty value of said property in excess of Rs.50,000/- is to be assessed as income from other sources i.e., consideration which is less than the stamp duty value of the property by an amount exceeding Rs.50,000/-. It is to be noted that the stamp duty defined as per Explanation F to section 56(2)(vii) commence a definition of the expression "stamp duty value" so as to mean the value adopted or assessed or assessable by authority of the Central Government or State Government for the purpose of payment of stamp duty in respect of an immovable property. It means that the true value of the property or the asset and what should have been the consideration i.e., the fair market value of the property is to be considered for the purpose of considering the provisions of section 56(2)(vii)(b)(ii) of the Act. In the present case, admitted position is that the Government of Tamil Nadu i.e., Inspector General of Registration has reduced the circle rates of the property w.e.f.2017 comparing to the guideline value of 2015, the same is to be considered for adopting the fair market value of the property for the purpose of section 56(2)(vii)(b)(ii) of the Act. In our view, the DVO should consider the subsequent downward revision of guideline value for the purpose of registration of properties i.e., the circle rate and give weightage to the same and then estimate the fair market value of the property. Hence, in

term of the above, we set aside this narrow issue to the file of the AO who in turn will refer the matter again to the DVO with a specific direction to consider the guideline value i.e., the downward revision made from 2017 of the relevant area and then make estimated fair market value of the property accordingly. Hence, the orders of the lower authorities are set aside and the matter is remanded back to the file of the AO with the above direction.

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

Order pronounced in the open court on 12<sup>th</sup> October, 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 12<sup>th</sup> October, 2022

**RSR**

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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|------------------------|--------------------------|-----------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकरआयुक्त (अपील)/CIT(A) |
| 4. आयकरआयुक्त /CIT     | 5. विभागीयप्रतिनिधि/DR   | 6. गार्डफाईल/GF.            |