

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI  
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri V. Durga Rao, Judicial Member &  
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No. 617/Chny/2020  
निर्धारण वर्ष/Assessment Year:2015-16

Shri Thirunavukarasu Arul,  
#18, Govindan Street,  
Aminjikarai, Chennai 600 029.

[PAN:AMZPA4958N]

Vs. The Income Tax Officer,  
Non Corporate Ward 10(1),  
Room No. 619, 6<sup>th</sup> Floor, Wanaparthy  
Block, Aayakar Bhavan, #121, MG  
Road, Chennai 600 034.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Anandd Babunath, CA  
प्रत्यर्थी की ओर से/Respondent by : Shri Hema Bhupal, JCIT  
सुनवाई की तारीख/ Date of hearing : 29.08.2022  
घोषणा की तारीख /Date of Pronouncement : 21.10.2022

**आदेश /O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 12, Chennai, dated 22.02.2019 relevant to the assessment year 2015-16.

2. Facts are, in brief, that the assessee has filed his return of income for the assessment year 2015-16 on 29.09.2016 admitting total income of ₹.6,60,330/- The case was selected for limited scrutiny through CASS and notice under section 143(2) of the Income Tax Act,

1961 ["Act" in short] dated 11.07.2017 was issued and duly served on the assessee on 14.07.2017. Notice under section 142(1) of the Act along with questionnaire was issued and the same was served on the assessee. After considering the details furnished by the assessee, the Assessing Officer has completed the assessment under section 143(3) of the Act dated 27.12.2017. In the assessment order, the Assessing Officer has noted that the assessee has purchased a property and registered the same at Sub Registrar Office, Neelankarai, Chennai on 15.10.2014. As per sale deed executed on 15.10.2014, the assessee has purchased a property being vacant land to the extent of 21,600 sq. ft. for a total consideration of ₹.1,80,00,000/-. The assessee has also paid stamp duty & registration charges amounting to ₹.25,92,270/-. As per the sale deed, the market value of the property is ₹.3,24,00,000/- for the purpose of stamp duty. The Assessing Officer proposed to adopt SRO value as sale consideration of ₹.3.24 crores by invoking section 56(2)(vii)(b) of the Act and to tax the difference of ₹.1.44 crores between the purchase price of the property of ₹.1.80 crores and fair market value of the property for the purpose of stamp duty of ₹.3.24 crores. However, the assessee has objected for the adoption of stamp value as FMV and requested for reference to DVO. Accordingly,

Assessing Officer made a reference to the Departmental Valuation Officer. Since the DVO report could not reach the Assessing Officer till completion of the assessment, the difference between the guideline value and purchase consideration was brought to tax.

2.1 Subsequently, the DVO report came on 10.08.2018 and as per the valuation report filed in paper book page 45, the DVO estimated the fair market value at ₹.2,04,12,000/- to be adopted. Accordingly, the Assessing Officer passed order under section 155(15) of the Act dated 30.08.2018 and adopted the fair market value at ₹.2,04,12,000/- and relief was granted.

3. The assessee carried the matter in appeal before the Id. CIT(A). By approving the order of the Assessing Officer accepting the fair market value estimated by the DVO, the Id. CIT(A) dismissed the ground raised by the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal against the appellate order passed by the Id. CIT(A).

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including

paper book filed by the assessee. Against the objection for adopting SRO value as FMV, the Assessing Officer referred the matter to the DVO and the DVO has estimated the FMV at ₹.2,04,12,000/-. Accordingly, the Assessing Officer passed order under section 155(15) of the Act dated 30.08.2018 and adopted the fair market value of the property at ₹.2,04,12,000/-. On appeal, after considering the submissions of the assessee, the Id. CIT(A) has observed as under:

*“7. The AO had observed the following in the assessment order:*

*“The assessee had purchased a property amounting to Rs.3,24,00,000/- and registered at SRO, Neelenkarai on 15.10.2014. As per the sale deed executed on 15.10.2014, the assessee had purchased a vacant land for a total of Rs.1,80,00,000/- and had paid Stamp duty & Registration charges amounting to Rs. 25,92,270/- [Stamp duty Rs. 22,68,000 + Registration charges Rs.3,24,000/-] whereas the market value of the property was Rs. 3, 24, 00,000/- for the purpose of Stamp duty.*

*The assessee had debited a sum of Rs. 2,29,31,770/- being purchase cost, including registration charges and incidental expenses/eviction expenses towards purchase of property. But the assessee was not able to prove the payment made to the persons, the AO disallowed a sum of Rs.23,27,000/-.*

*The AO proposed to add a sum of Rs.1,44,00,000/- by invoking Section 56(2)(vii), the difference between the purchase price of the property (Rs.1,80,00,000/- and market value of the property for the purpose of Stamp duty (Rs.3,24,00,000/-). The assessee objected to the addition and had requested to refer the case to the Departmental Valuation Officer.*

*As the AO had not received the Valuation report till the date of completion of assessment, sum of Rs. 1,17,95,230/- [difference between the purchase price of Rs. 2,08,04,770/- and guideline value of property Rs.3,24,00, 000/-] was added to the total income as Income from Other Sources”.*

8. *The District Valuation Officer had sent Valuation Report dated 10.08.2018 mentioning the fair market value of the subject property (vacant land) as on 15.10.2014 at Rs.2,04,12,000/-.*

9. *The AO had passed order u/s 155(15) making the following observations:*

*"The assessment was completed u/s 143(3) on 27.12.2017, on total income of Rs.1,24,55,560/- by invoking sec.56(2)(vii)(b) r.w.s. 50C of the IT Act, by adopting guideline value of Rs.3,24,00,000/- as purchase consideration as against the purchase value of Rs.1,80,00,000 as per the Sale Deed dated 15.10.2014.*

*The District Valuation Officer estimated the fair market value at Rs.2,04,12,000/- as on 15/10/2014 as against the guideline value of Rs.3,24,00,000/- Since the FMV of the DVO was lesser than the guideline value of the SRO, the FMV was adopted . The assessment was revised arriving at a revised total income of Rs.30,72,330/-."*

10. *During the appeal proceedings, the AR has stated that the stamp duty and registration charges were not considered by the AO in the order under section 155(1) of the IT Act. The appellant has filed the copies of stamp duty paid. The appellant has also stated that he incurred other expenses in connection with the transfer. However, no details have been produced.*

10.1 *The AO is directed to verify the proof regarding stamp duty and include the same in the computation if found correct. Regarding other expenses, no evidences have been furnished and the same are not allowed.*

6. Subsequently, the Id. CIT(A) has issued a corrigendum dated 29.07.2019 by clarifying his order in para 10.1 and the same extracted as under:

*In para 10.1 of the above order, it was mentioned that "The Assessing Officer is directed to verify the proof regarding stamp duty and include the same in the computation, if found correct."*

*It is brought to notice subsequent to passing the order that as the DVO has determined FMV at Rs.2,04,12,000/- and the stamp duty was not included in the cost, the stamp duty should not be deducted from the difference between DVO value and the purchase cost as admitted. Therefore, the above sentence is deleted from the order. This position will not adversely*

*affect the appellant when the property is sold in future, as he is free to claim the stamp duty as cost of asset at that point of time.”*

Since the above orders of the Id. CIT(A) are amply clear for adopting the fair market value determined by the DVO, we find no infirmity in the order passed by the Id. CIT(A). Accordingly, the appeal filed by the assessee stands dismissed.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on the 21<sup>st</sup> October, 2022 in Chennai.

Sd/-  
(G. MANJUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 21.10.2022

Vm/-

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.