

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

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

आयकर अपील सं./ITA No.174/Chny/2021
निर्धारण वर्ष /Assessment Year: 2011-12

Smt. Bharati Dhanuka,
175, TH Road,
Chennai – 600 081.
[PAN: AAQPJ-2406-B]

The Principal Commissioner
Vs. of Income Tax,
Chennai-8.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri Samdariya Fateh Chand, FCA
: Shri M. Rajan, CIT

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

: 21.09.2022
: 21.10.2022

आदेश / ORDER

Per Mahavir Singh, Vice President :

This appeal by the assessee is arising out of the order of Principal Commissioner of Income Tax, Chennai-8 in Revision No. PCIT, Chennai-8/Revision-263/100000162379/2020 dated 17.03.2021 for Assessment Year 2011-12 passed u/s. 263 of the Income Tax Act, 1961 (hereinafter 'the Act').

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2. At the outset, it is noticed that the appeal filed by assessee is barred by limitation by 22 days. The assessee has filed condonation petition along with affidavit stating that the order of PCIT dated 17.03.2021, was received by assessee only on 24.03.2021 but the appeal was filed only on 07.06.2021 due to Covid-19 pandemic. It means that there is a delay of 22 days. The Id.AR before us stated that this delay is due to pandemic period of Covid 19 and subsequent events and the Hon'ble Supreme Court in Miscellaneous Application No.665 of 2021 vide order dated 23.03.2020 has given directions that the delay are to be condoned during this period 15.03.2020 to 14.03.2021 and they have condoned the delay up to 28.02.2022 in Miscellaneous Application No.21 of 2022 vide order dated 10.01.2022. Since the Hon'ble Supreme Court has condoned the delay during the said period, respectfully following the same we condone the delay and admit the appeal.

3. The only issue in this appeal of assessee is against the revision order passed by the PCIT u/s. 263 of the Act revising the assessment order dated 25.12.2018.

4. The brief facts of the case are that the assessee filed here return of income for the relevant Assessment Year 2011-12 on 05.08.2011

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admitting total income at Rs. 25,97,010/- which included Long Term Capital Gain of Rs. 20,67,817/-. The assessee has declared capital gain declaring full value of consideration in the return of income at Rs. 25 Lakhs. The PCIT noted on perusal of registered sale deed dated 11.06.2010 that the assessee sold the property for a consideration of Rs. 25 Lakhs as against value adopted by Sub Registrar, Stamp Valuation Authority for the purpose of payment of stamp duty in respect of this property at Rs. 36 Lakhs. According to PCIT, the provisions of s. 50C of the Act are applicable to the transactions and hence, he wanted to revise the assessment and thereby issued show cause notice. The PCIT finally directed the A.O to adopt the value as valued by Sub Registrar, Stamp Valuation Authority u/s. 50C of the Act and for this he observed as under:

"9) I have carefully considered the facts of the case and the submissions made by the assessee. It is an admitted fact that the land sold by the assessee is hit by the provisions of Section 50C, for the reason that there is difference in value adopted by SRO and the sale ; consideration of the said property as per deed. In this connection, the AR of the assessee ; ' has not furnished any explanation. The AR of the assessee contested only on the procedural ^ aspects of this case. Thus, it is clear that the Assessing officer dropped the re-assessment proceedings without conducting necessary investigation which she was prima-facie required j to do, making the order an erroneous assessment prejudicial to the interests of revenue, warranting revision u/s 263."

5. The PCIT finally directed the A.O as under:

"The AO is directed to adopt the sale value of the property as per the value adopted by the SRO by Invoking the provisions of section 50C and determine the capital gain accordingly."

Aggrieved, the assessee came in appeal before the Tribunal.

6. We have heard the rival contentions and gone through the facts and circumstances of the case. Before us, the Ld. Counsel for the assessee filed copy of notice issued u/s. 148 of the Act dated 27.03.2018 and the reasons sought by the ACIT, Non Corporate circle-4(1), Chennai vide letter No.FNo.292/SCR/ACIT/NCC-4/AAQPJ2406B/2018-19 dated 01.11.2018 and the relevant reasons reads as under:

“Accordingly, the reason, as recorded by the AO for reopening your assessment for the A.Y, 2011-12 is as under:-

“It is seen from the return of income that the assessee has not disclosed the sale of immovable property done by her on 11.06 2010 for Rs.36,00,000/- and hence I have reason to believe that LTCG of more than Rs.1,00,000/- has escaped assessment within the mining of Section 147”.

7. These reasons were dropped by the A.O vide F. No.292/ACIT/NCC-4/2018-19 communication dated 06.12.2018 and relevant text of communication reads as under:

“Please refer to the above letter wherein you have objected to the re-opening of your assessment u/s. 147 of the Income Tax Act for the A.Y 2011-12 for the reasons specified therein.

In this regard you are hereby intimated that your objection is accepted. The proceedings u/s. 147 are dropped.”

8. The Ld. Counsel for the assessee stated that mere market value adopted for the purpose of s. 50C of the Act by the Sub Registrar, Stamp Valuation Authority cannot be the basis for revision of the assessment u/s. 263 of the Act. The Ld. Counsel for the assessee

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relied on the decision of Hon'ble Madras High Court in the case of *CIT vs. Smt. Padmavathi*, [2020] 120 taxmann.com 187 (Madras).

9. Further, as discussed by Hon'ble Madras High Court in the case of *CIT vs. Smt. Padmavathi*, supra, considering the very issue of revision proceedings u/s.263 of the Act, noted that in case there is some difference between the sale consideration as per sale deed and the guideline value fixed by Stamp Valuation Authority and merely because guideline value was higher than the sale consideration shown in the sale deed, it cannot be sole reason for holding that the assessment is erroneous and prejudicial to the interest of Revenue. Hon'ble Madras High Court in para 16 held as under:-

“16. The only reason for setting aside the scrutiny assessment was on the ground that the guide line value of the property, at the relevant time, was higher than the sale Consideration reflected in the registered document. The question would be as to what is the effect of the guideline value fixed by the State Government. There are long line of decisions of the Hon'ble Supreme Court holding that guideline value is only an indicator and the same is fixed by the State Government for the purposes of calculating stamp duty on a deal of conveyance. Therefore, merely because the guideline was higher than the sale consideration shown in the deed of conveyance, cannot be the sole reason for holding that the assessment is erroneous and prejudicial to the interest of revenue.”

10. We noted from the above that merely on the basis of the value adopted by Stamp Valuation Authority for the purpose of registration of sale deed, the revision proceedings u/s. 263 of the Act is not possible. Hence, respectfully following the decision of Hon'ble Madras High

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Court in the case of *CIT vs. Smt. Padmavathi*, supra, we quash the revision order passed by PCIT and allow the appeal of the assessee.

11. In the result, the appeal of the assessee is allowed.

Order pronounced on 21st October, 2022.

Sd/-
(जी. मंजुनाथ)
(G. Manjunatha)

लेखा सदस्य /Accountant Member

Sd/-
(महावीर सिंह)
(Mahavir Singh)
उपाध्यक्ष / Vice President

चेन्नई/Chennai, दिनांक/Dated: 21st October, 2022.

EDN/-

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