

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'A' 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 अपीलसं./**ITA Nos.: 1299 & 2399/CHNY/2018**

निर्धारण वर्ष/Assessment Year: 2014-15 & 2015-16

**Copco Engineering P. Ltd.,**  
No.398, (Old No.766),  
Poonamallee High Road,  
Chennai- 600 010.

**The ACIT / ACIT(OSD),**  
vs. Corporate Circle 1(2) /  
Corporate Range 1,  
Chennai.

**PAN: AAACC 2483J**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 15.11.2022

घोषणा की तारीख/Date of Pronouncement

: 18.11.2022

**आदेश / O R D E R**

**PER MAHAVIR SINGH, VICE PRESIDENT:**

These two appeals by the assessee are arising out of two different orders of the Commissioner of Income Tax (Appeals)-1, Chennai vide ITA Nos.306/CIT(A)-1/2016-17 & 96/CIT(A)-1/2017-18 dated 28.03.2018 & 28.06.2018. The assessments were framed by the ACIT, Corporate Circle 1(2) / ACIT(OSD), Corporate Range 1, Chennai for the assessment years 2014-15 & 2015-16 u/s.143(3)

of the Income Tax Act, 1961 (hereinafter the 'Act') vide orders dated 21.12.2016 & 31.10.2017 respectively.

2. The only common issue in both the appeals of assessee is as regards to the order of CIT(A) confirming the action of AO in making addition of Rs.21.82 lakhs in assessment year 2014-15 and Rs.8,99,900/- in assessment year 2015-16 in regard to property purchase transaction between assessee and son, who is the managing director of the assessee company by invoking the provisions of section 40A(2)(a) of the Act, without assigning proper reasons or justification and not ascertaining independently fair market value of the land. For this, assessee has raised various grounds in both the years which are argumentative and exhaustive and hence, need not be reproduced. Since the issue and facts in both the years is identical, we will take the facts from assessment year 2014-15.

3. Brief facts are that the AO during the course of assessment proceedings noted that the assessee has purchased land from son of the Managing Director of the assessee company for a sum of Rs.1.40 crores. The AO noted that as per sale deed, the value of land disclosed is Rs.1.40 crores whereas the amount paid by

assessee for the value of land is excess to the extent of Rs.21.82 lakhs. Accordingly, the AO brought the excess amount over the fair market value of the land to tax by invoking the provisions of section 40A(2)(a) of the Act. Aggrieved, assessee preferred appeal before CIT(A). The CIT(A) also confirmed the action of the AO and not considered the explanation submitted by assessee properly. Aggrieved, assessee came in appeal before the Tribunal.

4. Now before us, the Id.counsel for the assessee stated that the assessee before AO and CIT(A) placed copy of sale agreement which discloses the value of land at Rs.4.50 crores. The original sale agreement for transfer of land was to the extent of 13,130 sq.ft., @ Rs.2437.26 per sq.ft. It was contended before the lower authorities by the assessee that 4139 sq.ft., out of the total area was transferred for a sum of Rs.1,41,85,300/- which works out at Rs.3427.26 per sq.ft. It was contended that they have paid the same price as per the agreement for the acquisition of land of 4139 sq.ft., transferred during the year. According to AO and CIT(A), the amount paid by assessee for the purchase of land is excessive to the extent of Rs.21.82 lakhs and once the payment made to specified person is found to be excessive, disallowance u/s.40A(2)(a) of the Act is to be made. But, the Id.counsel for the

assessee argued that neither the AO nor the CIT(A) has held the payment on account of land is excessive or unreasonable and according to him, the consideration paid for purchase of land was as per the fair market value of the goods i.e., the land and not as per the circle rate fixed for stamp duty purposes. The Id.counsel stated that the circle rates are for the purpose of computing long term capital gain and that also applies only in case, the consideration is less and not more. According to Id.counsel, here the concept is fair market value and according to him, the payment made for purchase of land is as per the prevalent market rate, which is fair market value of the property. The Id.counsel for the assessee relied on the decision of Hon'ble High Court of Madras in the case of CIT vs. Dr. V. Srinivasan, (2002) 254 ITR 419, wherein it is held that

“The assessee, a practicing doctor in medicine, took on lease a premises constructed by a trust on a land, owned by the assessee, with his permission and the beneficiaries of the trust consisted of assessee's minor children. The assessee paid a sum of Rs.1,80,000 to the trust as rent for a year and claimed deduction in respect thereof. It has been held that such rent was an admissible deduction in computing the income of the assessee without attracting the provisions of section 40A(2).”

5. The Id.Senior DR relied on the assessment order and the order of the CIT(A).

6. After hearing rival contentions and going through the details, it is noted that the payment made for purchase of land is fair market

value of land and none of the authorities below have considered this issue whether payment made is excessive or unreasonable in term of section 40A(2)(a)of the Act. Once the payment made is found to be reasonable in term of the perspective of businessman, unless a contrary finding given by the authorities below, the addition cannot be sustained. Accordingly, we allow this issue of assessee's appeal.

7. Consequently, the issue being exactly identical in assessment year 2015-16 in ITA No.2399/Chny/2018, the addition made by the AO cannot be sustained and this appeal of the assessee is also allowed.

8. In the result, both the appeals filed by the assessee are allowed.

Order pronounced in the open court on 18<sup>th</sup>November, 2022 at Chennai.

Sd/-

(जी. मंजुनाथ)

**(G. MANJUNATHA)**

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह )

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 18<sup>th</sup> November, 2022

**RSR**

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT    | 5. विभागीय प्रतिनिधि/DR  | 6. गार्ड फाईल/GF.            |