

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' 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.: **3512/CHNY/2018**  
निर्धारण वर्ष/Assessment Year: 2015-16

**Shri A. Manoharan,**  
No.43/15, New Thandavarayan  
Street, Old Washermanpet,  
Chennai – 600 021.

**The Income-tax Officer,**  
Vs. Non-Corporate Ward-17(2),  
Chennai.

**PAN : AAPPM 5503K**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri V. Veeraraghavan, Advocate  
: Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 07.12.2022

घोषणा की तारीख/Date of Pronouncement

: 07.12.2022

**आदेश / O R D E R**

**PER MAHAVIR SINGH, VP:**

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals)-5, Chennai in ITA No.178/CIT(A)-5/2017-18 dated 28.09.2018. The assessment was framed by the Income Tax Officer, Non-Corporate Ward 17(2), Chennai for the assessment year 2015-16 u/s.143(3) of the Income Tax Act, 1961, (hereinafter 'the Act') vide order dated 29.12.2017.

2. At the outset the Id.counsel for the assessee stated that the assessee has raised many grounds originally but now, he has raised concise grounds and he is pressing only one additional ground regarding the claim of deduction of Rs.47.50 lakhs being additional sale consideration through rectified sale deed dated 20.08.2009 by paying differential stamp duty also and claimed the exemption to this extent. The assessee also wants to contest the issue of cost of improvement of Rs.28.07 lakhs.

3. Brief facts are that the assessee received sale consideration of Rs.2.35 crores in regard to sale of his 1/7<sup>th</sup> share of ancestral property at Varadharajapuram Village, Sriperumbadur Taluk, Kanchipuram District, TamilNadu. The assessee claimed to have paid a sum of Rs.42,66,767/- to his daughters Miss Pavithra and Miss Subhadra and claimed deduction from total consideration of Rs.1,92,33,233/-. After indexing, the assessee declared long term capital gain of Rs.1,49,87,862/-. The assessee declared total investment in purchase of new house property including cost of construction and improvement of Rs.28,07,000/- and total investment claimed was Rs.1,24,08,802/-. The AO noted that the assessee's daughters have already received an amount of Rs.50 lakhs each as per the fact recorded in sale deed and hence, no further deduction was allowed by AO and CIT(A). The AO also not allowed construction expenses of Rs.28,07,000/-.

4. Now before us, the Id.counsel for the assessee stated that the assessee had made investment by way of purchase of residential property at Plot No.147, Survey No.306/3A1B in layout named Sri Shanmuga Nagar situated in No.1, Manivakkam Village, Chengalpet Taluk, Kancheepuram District. Now, assessee before us stated that he is restricting his claim only on two counts i.e., construction expenses of Rs.28.07 lakhs and the additional payment of Rs.47.75 lakhs paid and on which additional stamp duty was paid qua this assessee has also filed additional evidences in the shape of rectification deed dated 20.08.2019. The assessee before AO also made this claim that apart from purchase of property for Rs.91,08,200/-, the assessee also paid a sum of Rs.47.75 lakhs as additional consideration. This fact is noted by AO in his assessment order at page 8 and the relevant reads as under:-

“Rs.91,80,200/- was incurred by assessee as purchase consideration towards purchase of land at Shanmuga Nagar. The said property was registered on 29/10/2014 vide document no 14469/2014. The assessee paid Rs.43,33,200/- as consideration per document and a further sum of Rs.47,75,000/- as additional consideration. The details of payments for purchase of property are as under:-

| S. No. | Name of the payee             |            |      |        |             |
|--------|-------------------------------|------------|------|--------|-------------|
|        |                               | Date       | Bank | Chq/DD | Amount      |
| 1      | K S Sridhar<br>(vendor)       | 23/10/2014 | Cash | NA     | 5,00,000/-  |
| 2      | K S Gita<br>(vendor relative) | 28/10/2014 | CBI  | 345989 | 20,00,000/- |

|   |                         |            |     |        |             |
|---|-------------------------|------------|-----|--------|-------------|
| 3 | K S Sridhar<br>(vendor) | 29/10/2014 | CBI | 172457 | 43,33,200/- |
| 4 | K S Sridhar<br>(vendor) | 29/10/2014 | CBI | 345993 | 22,75,000/- |
|   | Total                   |            |     |        | 91,08,200/- |

But the AO has not allowed the claim because the assessee could not file any documentary evidence or registered documents to that extent. Even the assessee could not file any evidence in regard to cost of improvement of Rs.28.07 lakhs but only provided cheque numbers and the name of persons to whom payment is made. Now, the Id.counsel before us stated that he has collected all the evidences and as far as rectification deed dated 20.08.2019 is being filed before Tribunal as additional evidences and he requested that the same may be admitted and matter can be restored back to the file of the AO for verification of facts and verification of payment of additional consideration, qua this Id.Senior DR opposed admissibility of additional evidence but could not state any reason because this evidence was not available with the assessee at the time of original assessment as the assessment was framed vide order dated 29.12.2017. This was also not available with the assessee at the time of first appellate order which is dated 28.09.2018. In view of these facts, we are inclined to accept the plea of assessee as regards to admissibility of additional evidences and admit the same and direct the AO to verify the payment of Rs.47.75 lakhs as additional consideration in regard to purchase of property and claimed the

same as exempt u/s.54F of the Act. The AO will also examine the rectification deed dated 20.08.2019. Apart from this, as contended by assessee before us now, the assessee is having documentary evidence in regard to construction expenses, let the AO re-examine the same and in case, assessee is able to prove the cost of construction or improvement to the extent of Rs.28.07 lakhs, he will allow the claim of assessee as per law. In term of the above, the appeal of assessee on these two issues is remanded back to the file of the AO.

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

Order pronounced in the open court on 7<sup>th</sup> December, 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 7<sup>th</sup> December, 2022

**RSR**

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.