

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष
**BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER AND
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **175/Chny/2020**
निर्धारण वर्ष / Assessment Year: 2015-16

Devendra Estates Private
Limited
36 Prabhakar Apartments,
Melony Road, T. Nagar,
Chennai – 600 017.

[PAN:AAACD-2763-J]

(अपीलार्थी/Appellant)

The Pr. CIT,
v. Range-1,
Nungambakkam,
Chennai – 34.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: None

प्रत्यर्थी की ओर से/Respondent by

: Shri. S. Senthil Kumaran, CIT

सुनवाई की तारीख/Date of Hearing

: 08.02.2023

घोषणा की तारीख/Date of Pronouncement

: 15.02.2023

आदेश / O R D E R

PER G. MANJUNATHA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order passed by the learned Principal Commissioner of Income Tax, Chennai, u/s. 263 of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), dated 22.11.2019 and pertains to assessment year 2015-16.

2. The assessee has raised the following grounds of appeal:

1. *The order of the learned Principal Commissioner of Income Tax 1 is contrary to law and facts of the case.*
2. *The appellant, therefore, humbly submits that the impugned order is illegal and unsustainable in law.*
3. *In the Assessment Order, the AO had stated that the Appellant had produced the details, books of accounts during the course of hearing related to assessment year 2015-16.*
4. *A letter was also sent by the AO on 11/09/2017 to produce details regarding interest paid sources for the investment in the unlisted equities copy of Bank account and copy of ledger accounts copy of Purchase Deed, layout details of interest paid capitalized etc. The AR furnished details as called for and the same were examined. The above para is more than self-explanatory to contradict the View of the Learned Pr CIT that there is a total lack of application of mind and the AO had not made a detailed and thorough enquiry before passing the order.*
5. *The Appellant wish to contend that the order passed by the Learned Pr CIT has no locus standi since the AO had made a detailed and had collected all the details and had also made a thorough enquiry before passing the order under section 143(3)."*

3. The brief facts of the case are that, the assessee company is engaged in the business of investment in real estate and finances, filed its return of income for the assessment year 2015-16 on 30.10.2015, admitting total income at Rs. 1,44,47,860/-. The assessment has been completed u/s. 143(3) of the Act on 28.11.2017 and determined total income at Rs. 1,58,05,137/- by making addition of Rs. 13,57,277/- u/s. 14A r.w.r. 8D of IT Rules, 1962. The case has been, subsequently taken upon for

revision proceedings and show cause notice u/s. 263 of the the Act, dated 26.07.2019 was issued and served on the assessee. In the said show cause notice, the PCIT opined that the assessment order passed by the AO is erroneous in so far as it is prejudicial to the interest of the revenue, because the AO has not verified the issue of applicability of provisions of section 50C of the Act, towards sale consideration received for transfer of property, which rendered the assessment order to be erroneous and prejudicial to the interest of the revenue. Therefore, set aside the assessment order passed by the AO and directed the AO to redo the assessment afresh after granting opportunity to the assessee. Aggrieved by the PCIT order, the assessee is in appeal before us.

4. None appeared for the assessee. We have heard the Ld. DR and perused relevant materials available on record. We find that the assessment order passed by the AO u/s. 143(3) of the Act, dated 28.11.2017 is erroneous and prejudicial to the interest of the revenue, because the AO has not carried out required enquiries he ought to have been carried out in terms of explanation 2 to section 263 of the Act, which rendered the assessment order to be erroneous in so far as it

is prejudicial to the interests of the revenue, on the issue of computation of short term capital gain from sale of property at perungudi. It is evident from the fact that, although the guideline value of the property in terms of section 50C is more than the amount of consideration shown in the sale deed, the AO has failed to apply the provisions of section 50C and compute capital gain by adopting full value of consideration as per the provisions of section 50C of the Act. Therefore, we are of the considered view that, the PCIT has rightly invoked his jurisdiction and set aside the assessment order passed by the AO u/s. 143(3) of the Act dated 28.11.2017 and thus, we dismiss appeal filed by the assessee.

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

Order pronounced in the court on 15th February, 2023 at Chennai.

Sd/-

(बी दुर्गा राव)

(V. DURGA RAO)

न्यायिकसदस्य/Judicial Member

Sd/-

(जी. मंजुनाथ)

(G. MANJUNATHA)

लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 15th February, 2023

JPV

आदेश की प्रतिलिपि अग्रेषित/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 |