

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI**

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

आयकर अपील सं./ITA No.: 2757/Chny/2019

निर्धारण वर्ष / Assessment Year: 2013-14

Narasimalu Janakiraman,
No. 16/13, JMR Gang A Flat,
Duraismy 2nd Street, Korattur,
Chennai – 600 080.

The Income Tax Officer,
v. Non-Corporate Ward -7(2),
Chennai.

[PAN: AMYPJ-1352-J]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: None

प्रत्यर्थी की ओर से/Respondent by

: Shri. AR V Sreenivasan, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 10.04.2023

घोषणा की तारीख/Date of Pronouncement

: 10.04.2023

आदेश /ORDER

PER MANJUNATHA. G, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals)-7, Chennai, dated 27.08.2019 and pertains to assessment year 2013-14.

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

"1. The order dated 27.06.2019 of the Learned CIT(A)- 7, Chennai in ITA No.60/CIT-A-7/ 2018-19 for the Assessment year is contrary to facts, opposed to law and untenable.

2. The Ld CIT (A) erred in disallowing the claim of the Appellant that the Agricultural land is situated beyond 8 kms. from the City-limit Municipal limit.

For these and other grounds that may be permitted to be adduced before or during the course of hearing. The appellant prays that the appeal be allowed and the order of learned Commissioner of Income Tax (Appeals) be deleted in respect of the grounds not allowed by him."

3. The brief facts of the case are that, the appellant is an individual and the case was re-opened u/s. 147 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the reason that income chargeable to tax has been escaped assessment. During the course of assessment proceedings, the AO noticed that the assessee has sold an immovable property along with other co-owners for a consideration of Rs. 3,11,30,400/-. However, in the return of income, assessee has admitted consideration of Rs. 25 lakhs only. Therefore, the AO by taking note of details of sale consideration received for transfer of property adopted assessee's share of consideration at Rs. 51,88,400/- and computed long term

capital gains of Rs. 51,52,335/-, after allowing indexed cost of acquisition of Rs. 36,065/-. The AO had also rejected deduction claimed u/s. 54F of the Act for Rs. 25 lakhs, on the ground that the assessee has invested consideration for purchase of another residential house property in the name of his wife and thus, not eligible for the benefit of deduction.

4. Being aggrieved by the assessment order, the assessee preferred an appeal before the CIT(A). Before the CIT(A), the assessee argued that the impugned land sold by the assessee along with other co-owners is an agricultural land which is situated beyond 8 kms from the limits of local municipality. The assessee had also argued the issue of deduction claimed u/s. 54F of the Act in light of certain judicial precedents. The Id. CIT(A), after considering relevant submissions of the assessee and also taken note of relevant facts, opined that land sold by the assessee is not an agricultural land, because the assessee could not file any evidence to prove that the said land is agricultural land, which is situated beyond 8 kms from the limits of local municipality. However, directed the AO to allow the benefit of deduction u/s. 54F of the Act by following the decision of Hon'ble Jurisdictional High Court of Madras in

the case of CIT vs Natarajan (2006) 287 ITR 271. Aggrieved by the CIT(A) order, assessee is in appeal before us.

5. None appeared for the assessee. We heard the Id. Sr. AR and perused relevant material available on record. We find that the Id. CIT(A) has recorded categorical finding that the assessee could not file any evidence to prove that the impugned land sold by the assessee along with other co-owners is an agricultural land which does not come under the purview of capital gains. The CIT(A) had discussed the issue in light of facts brought out by the AO and arguments advanced by the assessee and came to the conclusion that the remand report called for from the AO with respect to the claim of the assessee, the AO gave his findings that the impugned land is not an agricultural land. The assessee neither filed any evidences nor explained how said land is agricultural land which is outside the scope of capital gains tax. The findings of the facts recorded by the Id. CIT(A) is uncontroverted. The assessee neither appeared nor filed any details. Therefore, we are of the considered view that there is no error in the reasons given by the Id. CIT(A) to sustain computation of capital gains

on sale of land and thus, we reject grounds taken by the assessee.

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

Order pronounced in the Open court on 10th April, 2023 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
पाध्यक्ष /**Vice President**

Sd/-
(मंजुनाथ. जी)
(MANJUNATHA. G)
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated: 10th April, 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 |