

आयकर अपीलीय अधिकरण “बी” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं. ITA No.394/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2017-18)

Deepika Subramanian A1, Alsa Samudram, 4, Fourth Seaward Road, Valmiki Nagar, Thiruvanmiyur, Chennai-600 041.	बनाम / Vs.	PCIT, Chennai-3.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. BFXPS-9285-L		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Ms. G. Vardini Karthik (Advocate)-Ld.AR
प्रत्यर्थी की ओर से/ Respondent by	:	Shri S.Senthil Kumaran (CIT)- Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	19-07-2023
घोषणा की तारीख / Date of Pronouncement	:	24-07-2023

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. By way of this appeal, the assessee assails revisionary jurisdiction u/s 263 as exercised by Ld. Pr. Commissioner of Income Tax, Chennai-3 (Pr. CIT) vide impugned order dated 13-03-2022 in the matter of an assessment framed by Ld. AO u/s.143(3) of the Act on 13-11-2019. The grounds taken by the assessee read as under: -

1. The order passed by the Respondent is erroneous in law and opposed to the facts and circumstances of the case.
2. The respondent erred in invoking the provisions of Sec.263 on the ground that the assessing officer has failed to add the difference between sale consideration and guideline

value, failing to see that it was a "Limited Scrutiny" where the Assessing Officer after examination of exhaustive details and evidence has completed the assessment u/s 143(3).

3.The Respondent ought to have appreciated the Judgement of the Hon'ble Madras high Court in the case of CIT Vs Smt Padmavati [2020] 120 taxmann.com 187 (Madras) after observing that the assessing officer in his limited scrutiny, has verified the source of funds, noted the sale consideration paid, the expenses incurred for stamp duty and other charges and held that the invocation of the power under section 263 of the Act by the PCIT is not sustainable in law.

4.The Respondent failed to see that the notice U/s 142(1) dated 3.6.2019 issued by the assessing officer had sought for the entire details with regard to the purchase/sale of property in question and the value of transaction recorded in sale deed and market/guideline value.

5.The Respondent failed to appreciate the fact that the assessing Officer during original assessment had a specific column for "remarks" seeking exhaustive details on the nature of transaction and the assessment was completed accepting the income as furnished in ROI after thorough enquiry.

6.The respondent ought to have appreciated that it is a well settled law that the 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, 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.

7.The respondent ought to have appreciated that the assessing officer had accepted the sale consideration only on finding that impugned property was a 26-year-old flat after inspection of the property was conducted by two department officers in 2019 and that the seller had agreed for the sale price after taking into consideration the various factors such as the age and condition of the flat at the time of sale.

2. The Registry has noted delay of 319 days in the appeal, the condonation of which has been sought by the assessee on the strength of condonation petition supported by the affidavit of the assessee. In the petition, it has been submitted that that assessee received impugned order but was not aware of the fact that the said order was an appealable order and held misconception that she had to wait for assessing officer to pass consequential order. She became aware of this fact only during appellate proceedings challenging consequential order. As per legal advice, she preferred the present appeal. Accordingly, the assessee seeks condonation of delay. The Ld. CIT-DR opposed the same on the ground that the assessee was having legal advice at all the

times and took a conscious decision not to file the appeal against revisional order. She preferred appeal only upon passing of adverse consequential order. From the assessee's submissions during scrutiny assessment proceedings, we find that the assessee only sought online legal advice and she represented the case herself at the time of framing of assessment. Therefore, accepting the plea of the assessee, we condone the delay and proceed with adjudication of the same on merits.

3. Upon perusal of impugned order, it could be seen that the revision has been sought on the allegation that the assessee purchased certain property during this year for consideration of Rs.66 Lacs as against stamp duty value of Rs.77.87 Lacs. Therefore, Ld. Pr. CIT opined that AO should have invoked the provisions of sec 56(2)(vii) and made addition for the differential amount but he failed to do so. Accordingly, rejecting assessee's submissions, the assessment framed u/s 143(3) was set aside and Ld. AO was directed to redo the assessment by referring the matter to valuation officer. Aggrieved as aforesaid the assessee is in further appeal before us.

4. Upon perusal of assessment order, it could be seen that assessee's case was selected for *limited scrutiny*. One of the points to be scrutinized was to examine the purchase / sale of property during the year. During the course of assessment proceedings, notice u/s 142(1) was issued on 03/06/2019 calling for various details including detail of sale / purchase of property. The assessee responded to these notices. Considering the details furnished by the assessee Ld. AO accepted the return of income. In reply dated 24/10/2019 (filed on 06/11/2019), the assessee elaborately explained the source of payment made to

purchase the property under consideration. The details of sale consideration as well as stamp duty paid by the assessee was also furnished. On the basis of the same, it could be said that Ld. AO had examine the issue of purchase of property by the assessee and chose not to make any addition on this account. The Ld. Pr. CIT seek revision of the order to invoke the provisions of Sec. 56(2)(vii) [wrongly mentioned as 56(2)(iii) at few places in the impugned order]. However, when once Ld. AO took one of the possible views and chose not to invoke these provisions, Ld. Pr. CIT, in our considered opinion, was not justified in directing fresh assessment by referring the valuation to valuation officer. The Ld. Pr. CIT has not rendered any finding that the market value of the property was higher than the one shown by the assessee. The case law of Hon'ble High Court of Madras in **CIT vs. Smt. Padmavathi (120 Taxmann.com 187)** supports our conclusion. The Hon'ble Court held that since the guideline value was only an indicator and same is fixed by State Government for the purpose of calculating stamp duty on a deed of conveyance, merely because guideline value was higher than sale consideration shown in deed of conveyance, it cannot be sole reason for holding that assessment was erroneous and prejudicial to interest of revenue. This decision would take precedent over the decision of Kochi Tribunal in **Vishwanath Manoj Kumar vs. CIT (ITA No.151/Coch/21 dated 12.06.2023)** as cited by Ld. CIT-DR. Therefore, considering the facts of the case, we quash the impugned order.

5. The appeal stand allowed in terms of our above order.

Order pronounced on 24th July, 2023

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / **VICE PRESIDENT**

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 24-07-2023
DS

आदेशकीप्रतिलिपिअप्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF