

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
**Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member**

आयकर अपील सं./I.T.A. No. 778/Chny/2023
निर्धारण वर्ष/Assessment Year: 2016-17

Salma Ahmed,
33A, Thomas Nagar, Little Mount,
Saidapet, Chennai 600 015.

Vs. The Income Tax Officer,
Non Corporate Ward -14(3),
Chennai.

[PAN:AOVPS4111D]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri K. Prasanna, CA
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT
सुनवाई की तारीख/ Date of hearing : 25.07.2023
घोषणा की तारीख /Date of Pronouncement : 25.07.2023

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi dated 02.05.2023 for the assessment year 2016-17.

2. Brief facts of the case are that the assessee filed her return of income belatedly for the assessment year 2016-17 on 31.03.2018 under section 139(4) of the Income Tax Act, 1961 ["Act" in short] declaring a total income of ₹.71,09,420/- after claiming deduction under section 54F

of the Act to the extent of ₹.1,25,00,000/- from capital gains computed under section 45 of the Act. The return filed by the assessee was processed under section 143(1) of the Act and selected for limited under CASS for the specific purpose of examining “deduction/exemption from capital gains” claimed by the assessee under section 54F of the Act. After considering the submissions and details against statutory notices, the Assessing Officer has completed the assessment under section 143(3) of the Act dated 26.12.2018 determining the total income of the assessee at ₹.2,39,48,340/- while recalculating capital gains on sale of property at ₹.2,35,23,462/- by denying assessee’s claim of exemption under section 54F of the Act to the extent of ₹.1,25,00,000/- and also restricting the assessee’s claim of cost of improvement of ₹.1,50,000/- and assessed a sum of ₹.4,00,000/- as undisclosed income under the head income from other sources. On appeal, deciding the issues on merits, the Id. CIT(A) dismissed the appeal of the assessee exparte after considering the submissions made by the assessee in the form of rounds of appeal and statement of facts.

3. On being aggrieved, the assessee is in appeal before the Tribunal.

4. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. During the

course of hearing, the Id. Counsel for the assessee has submitted that the assessee has deposited a portion of net consideration in capital gains deposit scheme before the due date under section 139(4) of the Act. However, the Assessing Officer has disallowed the same and brought to tax, which was confirmed by the Id. CIT(A) and argued that exemption under section 54F of the Act must not be denied as long as the deposit is made on or before the due date of filing return of income either under section 139(1) or section 139(4) of the Act. It was further submission that the Assessing Officer has erroneously disallowed the commission payment as well as cost of improvement. It was further submission that due to the circumstances beyond the control, the assessee could not able to respond to the notices issued by the Id. CIT(A) during pre and post Covid-19 pandemic and to substantiate her claim of exemption and other expenses claimed by the assessee and prayed for one more opportunity of being heard to substantiate her claim before the Id. CIT(A). Considering the above pleas, we are of the considered opinion that to meet the ends of natural justices, the assessee shall be given one more opportunity of being heard. Accordingly, we set aside the appellate order and remit the matter back to the file of the Id. CIT(A) to decide the issues afresh in accordance with law after considering the explanations of the assessee. The assessee is also directed to furnish complete details with

material evidences and convincing explanations before the Id. CIT(A) for consideration.

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

Order pronounced in the open Court on 25th July, 2023 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 25.07.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.