

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.367/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2016-17)

Smt. Rajaram Jayalakshmi 68, Bharathi Park, 7 th Cross, Saibaba Colony, Coimbatore-641 011.	बनम / Vs.	ACIT Corporate Circle-1, Coimbatore.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AANPJ-0857-B		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकी ओरसे/ Appellant by	:	Shri R.Vijayaraghavan (Advocate)-Ld.AR
प्रत्यर्थीकी ओरसे/ Respondent by	:	Shri V.Nandakumar (CIT)-Ld. DR

सुनवाईकी तारीख/ Date of Hearing	:	30-11-2023
घोषणाकी तारीख / Date of Pronouncement	:	01-12-2023

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. By way of this appeal, the assessee assails the invocation of revisionary jurisdiction u/s 263 by Ld. Pr. Commissioner of Income Tax, Coimbatore-1 (Pr. CIT) vide impugned order dated 06-03-2023 in the matter of an assessment framed by Ld. AO u/s.147 r.w.s 144B of the Act on 30-03-2022 making certain additions under the head capital gains.
2. During assessment proceedings, it transpired that the assessee, as a joint holder, sold certain land with factory building and machineries. The land belonged to three directors of corporate entity viz. M/s Sri

Ranga Creative Apparels India Pvt. Ltd. whereas the building was held by the corporate entity. The Ld. AO, after considering assessee's submissions, accepted the returned income.

3. The Ld. Pr. CIT, upon perusal of case records, observed that the assessee reduced indexed cost of land as well as indexed cost of building while computing capital gains which makes the order erroneous and prejudicial to the interest of the revenue. Another observation was that additions as per the provisions of Sec.50C were not made. These issues were not considered by Ld. AO during assessment proceedings. The assessee pleaded that the issue was thoroughly analyzed by Ld. AO making adequate enquiries. The assessee also made submissions and furnished various documents supporting the case of the assessee on cost of improvement of land. However Ld. Pr. CIT maintained that indexed cost of improvement for Rs.233.44 Lacs as claimed was not in order. Accordingly, Ld. AO was directed to redo the assessment on both the issues with a direction to the assessee to substantiate its case. Aggrieved, the assessee is in further appeal before us.

4. Upon perusal of assessment order, as well as queries raised during the course of assessment proceedings, it could be seen that issue of cost of improvement on building was nowhere examined and verified by Ld. AO. No submissions were made and there was no application of mind by Ld. AO on this issue. As per sale deed, it is only the corporate entity which is having right over the building. Therefore, such cost could not have been claimed by the joint owners in individual capacity. Non-consideration of impugned issue as flagged by Ld. Pr. CIT certainly makes the order amenable to revision u/s 263. The second issue viz. application of Sec. 50C has triggered reassessment in the case of the

assessee. But still, no addition has been made by Ld. AO on this issue which makes the order erroneous and prejudicial to the revenue. Therefore, we see no reason to interfere in the impugned order.

5. The appeal stand dismissed.

Order pronounced on 01st December, 2023.

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

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

चेन्नई Chennai; दिनांक Dated : 01-12-2023
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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