

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथा. जी, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANJUNATHA.G, ACCOUNTANT MEMBER**

आयकर अपीलसं./ITA No.: 1273/CHNY/2023

निर्धारण वर्ष/Assessment Year: 2012-13

Smt. Chenniappan Sudha,
4/4, Sanarpalayam, Pungambadi,
Perundurai,
Erode – 638 112.

The Income Tax Officer,
vs. Ward 2(1),
Erode.

PAN: DVPPS 8980A

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri S. Sridhar, Advocate
: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing : 19.02.2024

घोषणा की तारीख/Date of Pronouncement : 21.02.2024

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) in order No.ITBA/NFAC/S/250/2023-24/1056748085(1) dated 04.10.2023. The assessment order was framed by the Income-tax Officer, Ward 2(4), Erode for the

assessment year 2012-13 u/s.143(3) r.w.s.147 of the Income Tax Act, 1961 (hereinafter the 'Act'), vide order dated 23.12.2019.

2. The first issue in this appeal of assessee is as regards to the order of CIT(A) confirming the action of the AO in making addition of unexplained cash deposit amounting to Rs.37.75 lakhs.

3. Brief facts are that the AO during the course of assessment proceedings noticed that the assessee has made cash deposit of Rs.40.77 lakhs in her bank account maintained with Indian Bank Ltd., Thottani Branch, Erode during the financial year 2011-12 relevant to this assessment year 2012-13. The assessee has not filed return of income and accordingly, notice u/s.148 of the Act dated 15.03.2019 was issued. Since no return of income u/s.148 of the Act was filed, a notice u/s.142(1) of the Act, dated 15.07.2019 (wrongly mentioned as 15.07.2017) was issued for calling of details and the said notice was served on the assessee on 18.07.2019. Thereafter notice u/s.142(1) of the Act was again issued calling for details viz., notes on activities/business, bank account copies, source and explanation for the cash deposits made into the bank account on 26.09.2019 and served on the assessee on 27.09.2019. The assessee has made cash deposits in savings bank account

maintained with Indian Bank Ltd., Thottani Branch, Erode on 26.11.2011. To explain the same, the assessee filed copy of document No.7229/2011 dated 25.11.2011 registered with Sub-Registrar, Perundurai, Erode. The AO on perusal of this document No.7229/2011 noticed that an immovable property of land was sold by assessee's husband Shri P. Chenniappan along with two others for a consideration of Rs.2,95,000/-. The AO considering the document value of sale at Rs.2.95 lakhs and assessee's husband share having 50% value required the assessee to explain the cash deposit of Rs.40 lakhs. The assessee again tried to explain that the assessee has received cash of Rs.40 lakhs on sale of this land but the AO called the purchasers namely Shri P. Pramasivam, who vide his letter dated 10.12.2019 stated that no cash consideration for purchase of this land was given except a sum of Rs.1,47,800/- for his 50% share. The relevant reply reads as under:-

“My share in this transaction is 50% only. I have settled amount for the purchase consideration by cash Rs.1,47,800/- as my share of purchase to Mr.P. Chenniappan and to Smt. C. Sudha. I have never paid any sale amount of Rs.40,00,000/- to her, it is false and if any document submitted for evidence is fabricated one as mentioned in your above said notice. The said amount of Rs.40,00,000/- is not related to me and never executed any document for such amount to Mr. P. Chenniappan (husband of C. Sudha). My PAN is AHLPP0820D and also filed my return of income for the past several years and filed return up to AY 2019-20.”

Similar statement was given by another purchaser of this property Shri R. Anandaramakrishnan vide his letter dated 17.12.2019. The assessee submitted a Xerox copy of agreement for sale dated 29.09.2010 as evidence in support of her claim that the property was sold for a sum of Rs.40 lakhs. But the said agreement dated 29.09.2010 was in 20 rupees non-judicial paper reportedly signed by ten persons including the two purchasers, was an unregistered document. The AO noted that there is no witness to this agreement and there is a difference in pattern of the signatures of persons reportedly signed in the agreement and the original document for sale. As the assessee failed to prove the genuineness of the documents or the original agreement for sale, the AO treated the entire cash deposit of Rs.40 lakhs deposited on 26.11.2011 in Indian Bank as unexplained money. The AO giving the benefit of probable source as sale consideration recorded in sale document of Rs.2,95,600/- treated the balance amount of Rs.37.75 lakhs as unexplained and added to the returned income of the assessee. Aggrieved, assessee preferred appeal before the CIT(A).

4. The CIT(A) confirmed the action of the AO. Aggrieved, now assessee is in appeal before the Tribunal.

5. The Id.counsel for the assessee could not adduce any evidence before us except one Certificate of Encumbrance on Property, that is in vernacular language i.e., Tamil language, which is beyond the understanding of both the Members. But, when it was given to Id. Senior DR, he stated that this has no relevance with the issue in hand. The Id.counsel could not file any evidence in support of claim of sale of agricultural land for a sum of Rs.40 lakhs and receipt of cash from sale of that agricultural land, despite opportunity given to assessee, she failed to file the same.

6. We have heard rival contentions and gone through the facts and circumstances of the case. We noted that the so claimed sale of agricultural land is documented for a sum of Rs.2,95,600/- and despite that there is no evidence except one sale agreement, which was never produced before us but was produced before AO, which is out rightly rejected by giving reasons noted above. We noted that there is no reason to interfere with the order of lower authorities and particularly, the AO, wherein admittedly the assessee has deposited cash of Rs.40 lakhs and the AO accepted the possible source of sale document value of Rs.2,95,600/- and balance sum of Rs.37.75 lakhs was treated as unexplained cash and added to the

total income of the assessee. We confirm the addition and dismiss this issue of assessee's appeal.

7. The next issue in this appeal of assessee is as regards to assessment of above claimed sale of agricultural land on protective basis at Rs.40 lakhs. We noted that we have already confirmed addition as regards to cash deposit treating the same as unexplained money added to the returned income of the assessee by the AO. Hence, we delete the addition of long term capital gain.

8. In the result, the appeal filed by the assessee is partly-allowed.

Order pronounced in the open court on 21st February, 2024 at Chennai.

Sd/-

(मंजुनाथा. जी)
(MANJUNATHA.G)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)
(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 21st February, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|-------------------------|--------------------------|---------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त /CIT |
| 4. विभागीय प्रतिनिधि/DR | 5. गार्ड फाईल/GF. | |