

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD

BEFORE SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 342/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2006-07)

Bojjala Venkata Sudhir Reddy, Vs. Income Tax Officer,
Hyderabad Ward-6(3),
[PAN No. ADQPB2772D] Hyderabad

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Pawan Kumar Chakrapani, AR
राजस्व द्वारा/Revenue by: Ms. Aditi Goyal, DR

सुनवाई की तारीख/Date of hearing: 16/05/2024
घोषणा की तारीख/Pronouncement on: 21/05/2024

आदेश / ORDER

Aggrieved by the order dated 13/01/2016 passed by the learned Commissioner of Income Tax (Appeals)-6, Hyderabad ("Ld. CIT(A)"), in the case of B.V. Sudheer Reddy ("the assessee") for the assessment year 2006-07, assessee preferred this appeal.

2. Brief facts of the case are that, the assessee along with other co-owners sold some land at Narsinghi Village. Learned Assessing Officer while placing reliance on the decision of the Co-ordinate Bench of the Tribunal in the case of Mirza Nader Baig vs. ITO, dated 16/01/2012, took a view that the lands situated in Narsinghi Village is a capital asset, attracting capital gains, when such lands are sold.

3. Though the assessee disputed the findings of the learned Assessing Officer before the learned CIT(A), assessee failed to produce any evidence what-so-ever to show that the lands in dispute are beyond 8 KMs from the

local limits of Hyderabad Municipal Corporation. Learned CIT(A), therefore, placed reliance on the decision of the Hon'ble jurisdictional High Court in the case of CIT vs. Bolla Ramaiah, (1988) 174 ITR 154 (AP), and also the decision of the Hon'ble Punjab and Haryana High Court in the case of CIT vs. Anjana Sehgal (ITA No. 276 of 2004, dated 01/03/2011), reached a conclusion that the lands in question constitute capital asset within the meaning of section 2(14)(iii)(b) of the Act and the learned Assessing Officer was right in computing the Short Term Capital Gain on the sale of such lands.

4. Assessee, therefore, preferred this appeal and vehemently contended that lands sold are agricultural lands and are outside 8 KMs from the municipal limits of Hyderabad Municipal Corporation and, therefore, they do not constitute capital asset, attracting capital gains and the Revenue authorities went wrong in this factual findings.

5. Per contra, learned DR submitted that the learned Assessing Officer gave ample opportunity to the assessee to produce evidence, but placing on certain decisions, the assessee argued before the learned Assessing Officer that as per the Revenue records, the lands in dispute and classified as 'patta' and are not to be considered as 'capital assets', but in fact failed to produce any evidence to show that the land in question in fact situated in any area prescribed under section 2(14)(iii) of the Act. As a matter of fact, this factual aspect was considered by the Tribunal in the case of Mirza Nader Baig (supra) and the facts in this case are identical the same.

6. I have gone through the record in the light of the submissions made on either side. Learned Assessing Officer placed reliance on the decision of the Co-ordinate Bench of the Tribunal in the case of Mirza Nader Baig (supra), wherein the issue of capital asset falling in Narsinghi Village on Rajendra Nagar Mandal was considered and the Bench as a matter of fact found that the lands in question at Narsinghi Village are capital assets and

on the sale of such lands, capital gains attract. Absolutely there is no material produced before the authorities nor before me to show that the lands in question are situated not within 8 KMS from local limits of Hyderabad Municipal Corporation.

7. In these circumstances, the view taken by the AO by placing reliance on the decisions of Mirza Nader Baig, Bolla Ramaiah and Anjana Sehgal (supra) cannot be found fault with and according to me, there is nothing illegality or irregularity in the findings of the learned CIT(A) in upholding the assessment order. The appeal is devoid of merits and is accordingly dismissed.

8. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on this the 21st day of May, 2024.

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,

Dated: 21/05/2024

TNMM

Copy forwarded to:

1. Bojjala Venkata Sudhir Reddy, Plot No. 174/A/A1, MLA Colony, Road No. 12, Banjara Hills, Hyderabad.
2. Income Tax Officer, Ward-6(3), Hyderabad.
3. The Pr.CIT-6, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE.

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD