

आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकर अपील सं. ITA No.876/Chny/2023
(निर्धारणवर्ष / Assessment Year: 2016-17)

&

आयकर अपील सं. ITA No.877/Chny/2023
(निर्धारणवर्ष / Assessment Year: 2016-17)

ACIT International Taxation, Madurai.	बनम/ Vs.	Shri Veeranan Ramu 1/427, Vellalur Village, Vellalur, Melur Taluk Madurai-625 105.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AYFPR-6051-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri R. Clement Ramesh Kumar (CIT)-Ld. DR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri Y. Sridhar (CA)- Ld.AR

सुनवाई की तारीख/ Date of Hearing	:	18-04-2024
घोषणा की तारीख / Date of Pronouncement	:	03-06-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by Revenue in ITA No.876/Chny/2023 for Assessment Year (AY) 2016-17 arises out of an order passed by learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] on 02-06-2023 in the matter of an assessment framed by Ld. AO u/s 147 on 31-05-2022. The sole

grievance of the revenue is deletion of addition of Rs.396.80 Lacs as made by Ld. AO u/s 56(2)(vii)(b) in the assessment order.

2. The Ld. CIT-DR advanced arguments and pleaded for violation of Rule 46A. The Ld. AR, on the other hand, supported the impugned order. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

3. Assessment Proceedings

3.1 The assessee being non-resident Indian purchased a certain property from a family, the details whereof has been tabulated on page nos. 2 & 3 of the assessment order. The purchased was sourced by the assessee from income earned from three companies. The assessee received funds of Rs.1155 Lacs and utilized sum of Rs.975.33 Lacs to purchase the said properties. The sale deed was executed on 05-09-2015.

3.2 However, Ld. AO noted that the document value vis-à-vis value taken by stamp authority was at variance and stamp duty valuation was higher by Rs.396.80 Lacs. The District Revenue Officer, on reference from SRO, Neelankarai, re-fixed the value of the properties at Rs.5200/- per sq ft. against the earlier value of Rs.4500/- per sq. ft. The re-fixation of the value of the properties resulted into a difference of Rs.396.80 Lacs between the document value and the value determined by stamp duty valuation authority. Invoking the provisions of Sec.56(2)(vii)(b), Ld. AO held that the said differential would be taxable in the hands of the assessee. Accordingly, the said amount was added in the hands of the assessee.

3.3 Consequently, Ld. AO levied penalty of Rs.138.14 Lacs against this addition u/s 271(1)(c) vide order dated 16-03-2023 which is subject matter of ITA No.877/Chny/2023.

Appellate Proceedings

4. During appellate proceedings, the Ld. CIT(A) held that Ld. AO had not appointed any DVO to carry out the fair valuation of the said property. The assessee had furnished a letter from registrar certifying the fair value at Rs.4000/- per sq. ft. On the basis of these facts, Ld. CIT(A) concluded that value adopted by the assessee was correct and therefore, impugned addition was deleted. Consequently, the penalty levied by Ld. AO was also deleted. Aggrieved, the revenue is in further appeal before us.

Our findings and Adjudication

5. From the facts, it emerges that the additions have merely been made on the basis of difference in document value vis-à-vis stamp duty valuation. However, Ld. AO has not obtained any valuation from DVO. The provisions of Sec.56(2)(vii)(b) are anti-abusive provisions and act as a counter tax evasion mechanism to prevent laundering of unaccounted money. In the present case, the assessee is non-resident and sourced the purchase amount from three entities owned by it. This fact is not in dispute. During appellate proceedings, the assessee has produced letter from Sub-registrar, Neelankarai, a translated version of the same is on record. The substantive portion of the letter dated 21.03.2023 read as under: -

As stated above, in the reference, as per your requisition letter the Survey Numbers 12/1, 12/75B, 12/75C, 12/75D, of Sholinganallur Village, do not have value as per the guideline register from 16-06-2015 to 08-06-2017. On the contrary, it is informed that the value of Sea Shore Town (Modern Builder Layout) per square feet is reported to be Rs.4,000.

It could be seen that appropriate authority has conveyed the guideline value as Rs.4000 per square feet whereas the assessee has purchased the land at Rs.4500 per square feet. Therefore, the impugned addition, in our considered opinion, has rightly been deleted by Ld. CIT(A). In view of this factual finding, the argument of violation of Rule 46A as urged by the revenue could not be accepted. Therefore, we concur with the adjudication of Ld. CIT(A). Consequently, the impugned penalty would also not survive. No interference is required in the impugned orders.

6. Both the appeals stand dismissed.

Order pronounced on 3rd June, 2024

Sd/-
(MANU KUMAR GIRI)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated : 03-06-2024
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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