

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जगदीश, लेखासदस्य के समक्ष  
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.49 /Chny/2024  
निर्धारण वर्ष /Assessment Year: 2011-12

Ponnusamy Lakshmi,  
8/1, Kurukku Street,  
Thirunagar Colony,  
Rangasamudram,  
Sathyamangalam, Erode District,  
Tamilnadu – 638401.  
[PAN: AGZPL 5169J]

The Income Tax Officer,  
Vs. Ward-2(5),  
Erode

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

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

: Shri T. Banusekar, Advocate  
: Shri P.Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 05.06.2024

घोषणा की तारीख /Date of Pronouncement

: 05.06.2024

आदेश / **ORDER**

**PER JAGADISH, A.M :**

Aforesaid appeal filed by the assessee is against the order of Learned Commissioner of Income Tax, Appeal, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 20.11.2023 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s.143(3) r.w.s 147 of the Income Tax Act, 1961 (hereinafter "the Act") on 11.11.2019.

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2. The assessee is an individual and has not filed return of income. The A.O on the basis of information that there was a huge cash deposits in the bank account of the assessee, has reopened assessment by issuing notice u/s. 148 of the Act. In response to notice, the assessee has filed return of income showing income of Rs. 67,88,220/- , on sale of land for consideration of Rs. 74,50,000/-. The assessee has explained the cash deposit in the bank account on 29.10.2010 of Rs. 16,50,000/- and Rs. 58,00,000/- on 17.02.2011 as sale proceeds received in cash on sale of agricultural land of 1.40 acre to Smt Nithya Suganthi and Shri KC Thangavel on 17.02.2011. The A.O made enquiry from the purchaser who stated that they have only paid sale consideration of Rs. 3,18,000/- as per the agreement. The A.O therefore, added the balance amount of Rs.71,32,000/- u/s. 69 of the Act as unexplained investment.

3. On appeal, the Ld. CIT(A) has confirmed the addition as the assessee has not furnished any evidence and material in support of her contention that the actual sale consideration was Rs. 74,50,000/- as against sale consideration Rs. 3,18,000/- in registered sale deed . The assessee is in appeal against the addition made u/s 69 of the Act.

4. The Ld. AR has submitted that the assessee is aged about 74 years old and lost her husband on 29.04.2008. The assessee's husband worked as Assistant Cane Officer in M/s. Bannari Amman Sugars Ltd., and retired in May, 1988 and purchased agriculture land in the year 1984 in the name of assessee. The assessee has sold the agriculture land and deposited the sale proceeds of Rs. 74,50,000/- received in cash in the bank account Rs. 16,50,000/- on 29.10.2010 as advance and balance of Rs. 58,00,000/- on 17.02.2011 on the date of registration. The assessee in response to notice u/s. 148 of the Act has filed the return of income showing income under the head capital gain on sale of the land. The Ld. AR has submitted that assessee has not filled return of income as land was shown as agriculture land in sale deed and she was under impression that the sale on agriculture income was not taxable. The learned AR submitted that the assessee is a housewife and has never filed her return of income, therefore, the source of cash deposit can be nothing but the cash received on the sale of agriculture land. The Ld. AR therefore argued that the source of cash deposit is explained .

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5. The Ld. DR, on the other hand, relied on the orders of lower authorities and argued that the assessee has not submitted any documentary evidence in support of her contention, therefore addition should be confirmed.

6. We have heard the rival contentions, and perused the materials available on record. The assessee is a house wife aged about 74 years and has never filed her return of income. In response to notice u/s. 148 of the Act, she has filed her return of income showing total income of Rs. 67,88,216/-. The assessee in the return of income has shown sale consideration of Rs. 74,50,000/- on sale of land on 21.02.2011. The assessee has explained that she has received Rs. 16,50,000/- on 29.10.2010 and the balance of Rs.50,00,000/- on 17.02.2011 on the date of registration as sale consideration and deposited the cash receipt in the bank account. However, the A.O has not accepted the assessee's contention as the purchasers in the statement have stated that they have only paid Rs.3,18,000/- for purchase of the land. The Ld. CIT(A) has also confirmed the addition stating that the assessee has not furnished any evidence and material in support of her contention. The assessee has explained the source

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of cash deposit in the bank account as sale proceeds which have been received on two installments, one as advance and balance on date of registration. The land sold is registered as agriculture land by the Registrar, but the land is falling in Ward-A, Block-3, TS No.51/2 as per the Town Survey records. As per sale document, the land sold is situated in Kottuveerampalayam Main Road near Sathyamangalam Bus Stand . The A.O has not accepted the assessee's explanation merely because, the purchasers have denied that they have not paid more than the registered value at Rs. 3,18,000/-. The land is situated within the municipal limit . We are aware of the ground situation that lands are sold much above the registered value. The date of cash deposited matches with the date of sale transaction. The principles of preponderance of property, human behavior and circumstantial evidence as laid down by the Hon'ble Supreme Court in the case of *CIT vs. Durga Prasad More 82 ITR 540 (SC)* are to be considered to evaluate the evidences. Assessee has already shown the sales consideration in the return of income and has paid the tax. . We therefore, hold that the A.O and Ld CIT(A) were not justified to reject the assessee's explanation of cash deposit in bank account. We accordingly, delete the addition made by A.O.

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7. In the result, the appeal filed by the assessee is allowed.

*Order pronounced in the open Court on 5<sup>th</sup> June, 2024.*

**Sd/**  
**(महवीर सिंह)**  
**(Mahavir Singh)**  
**उपध्यक्ष / Vice President**

**Sd/-**  
**(जगदीश)**  
**(Jagadish)**  
**लेखा सदस्य /Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 05<sup>th</sup> June, 2024.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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