

आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य एवं
माननीय 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.807/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-2018)

Suppana Gounder Karuppanasamy,
37, Mariamman Kovil Street,
Kalapatti,
Coimbatore 641 048.

Vs. The Assistant Commissioner of
Income Tax,
Non Corporate Circle 2,
Coimbatore.

[PAN: BWCPK 9001L]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri. N.V. Krishnan, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Ms. Gouthami Manivasagam, IRS, JCIT

सुनवाई की तारीख/Date of Hearing

: 12.08.2024

घोषणा की तारीख /Date of Pronouncement

: 14.08.2024

आदेश / ORDER

PER MANU KUMAR GIRI (Judicial Member)

This appeal by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in order No.ITBA/NFAC/S/250/2023-24/1060230328 (1) dated 29.01.2024. The assessment was framed by the Assistant Commissioner of Income Tax, Non Corp Circle-2, CBE for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act'), vide order dated 30.12.2019.

2. The following grounds of appeal are raised by the appellant:

1. The order of the Hon'ble CIT(A) is opposed to the law, facts and circumstances of the case and against the principles of natural justice.

2. Re: FMV of land as at 01.04.1981:

a. The Hon'ble CIT(A) erred in confirming the order of the learned assessing officer, without appreciating the fact that the FMV computed by the learned assessing officer as at 01.04.1981 was unreasonably low as compared to the actual market value.

b. The Hon'ble CIT(A) failed to appreciate that the market value determined by the Registered Valuer was based on various essential factors and explainable upon affording sufficient opportunity.

c. Without prejudice to the above, the assessment order passed by the learned assessing officer without referring the case to the DVO to determine the FMV as at 01.04.1981 is invalid and not in accordance with law.

In view of the above grounds and such other additional grounds as may be adduced at time of hearing, it is prayed before the Hon'ble Income Tax Appellate Tribunal,

i) to annul the order of assessment passed by the learned assessing officer,

ii) alternatively, to direct the learned assessing officer to adopt the market value determined by the Registered Valuer as cost of asset as at 01.04.1981, and

iii) to pass such other consequential orders as the Hon'ble Income Tax Appellate Tribunal may deem fit to render justice".

The Id.Counsel in substance confined his argument on the ground No.2(c) only.

3. Brief facts of the case are that the assessee filed her Return of income for the assessment year 2017-18 on 09.09.2017 declaring a total income of Rs.26,14,320/-(LTCG Rs.2559435/- and Other Sources Rs.74882/-), after allowing deduction under Chapter VIA of Income Tax Act. The return was selected for scrutiny under CASS. Notice u/s 143(2) of the Act was issued on 09.08.2018 and duly served on the assessee. Notice u/s 142(1) of the Act was issued on the assessee and in response, the assessee filed Profit & Loss account, Balance Sheet, Statement of Income, Details of investments in property, Form 26AS and other details called for. In the relevant financial year, the assessee has sold her

properties in two tranches to Sheha Asiana Pvt. Ltd. and returned Capital Gains Rs.25,59,435/-. The assessee has also reinvested a part of the sale proceedings in a house construction and claimed 54F deductions. Also a portion of the proceeds were reinvested in lands and claimed deduction u/s 54B also. The details were verified by the Assessing *Officer*. The assessee explained her Capital Gain income as from below transactions:

| | | | |
|-----------|---|--------------------|------------------|
| <i>I</i> | <i>Sale of 45 cents land to Sneha Asiana</i> | | |
| | <i>The capital gains computations were as below, as returned by the assessee:</i> | | |
| | <i>Sale Value [02.11.2016]</i> | <i>1,44,69,700</i> | |
| | <i>Less Indexed cost of property sold</i> | | |
| | <i>Cost of Acquisition- (01.04.1981 value) 8,00,000 x 1.83 = 14,64,000</i> | | |
| | <i>(a) Indexed Cost of this Value: 40,50,000 (1464000 x 1125/100)</i> | | |
| | <i>(b) Indexed cost of of improvement: 11,25,000</i> | | |
| | <i>(c) Brokerage 4,34,100</i> | <i>56,09,100</i> | |
| | <i>Gross Capital Gain (1,44,69,700-56,09,100)</i> | <i>88,60,600</i> | |
| | <i>Deduction u/s 54B (Cost of Reinvestment in Agricultural Land)</i> | <i>69,76,640</i> | |
| | <i>Long Term Capital Gain</i> | | <i>18,83,960</i> |
| <i>ii</i> | <i>Sale of 89 Cents to Sneha Asiana-</i> | | |
| | <i>Sale Value [02.11.2016]</i> | <i>2,69,69,700</i> | |
| | <i>Sale of land sold 800000/x0.89 = 7,12,000</i> | | |
| | <i>(Value as on 01.04.1981)</i> | | |
| | <i>(a) Indexed cost: (712000 x 1125/100) =80,10,000</i> | | |
| | <i>(b) Indexed cost of improvement: =12,37,500 (100000 X 1125/100)</i> | | |
| | <i>(c) Brokerage = 8,09,090</i> | | |
| | <i>-----</i> | <i>1,0056,590</i> | |
| | <i>Gross Capital Gain (26969700-10056590)</i> | | |
| | <i>Deduction u/s 54F Cost of reinvestment x Capital Gains/Sale Value</i> | <i>2,21,77,308</i> | |

| | | | |
|--|---------------------------------------|--|------------------|
| | <i>(35364007 x 16913110/26969700)</i> | | |
| | <i>Long Term Capital Gain</i> | | <i>(5264198)</i> |

4. The AO after having consideration to the guideline value of the SRO and the cost of acquisition mentioned in the subject property documents arrived at a reasonable value of Rs.10,000 per acre as cost of acquisition before indexation and another Rs.10,000/- towards the cost of improvement of the property. On the aforesaid basis, the AO computed the LTCG from sale of two lands (45 cents of land + 89 cents of land) as Rs.1,74,98,506/-.

5. Aggrieved, assessee challenged the order of AO before the Id.CIT(A). Before the Id.CIT(A), the assessee pleaded that the Assessing Officer ('AO' in short) has taken the market price of land as on 01.04.1981 at unreasonably low price of Rs.10,000/- whereas assessee has taken Rs.8,00,000/- per acre hence assessee approached approved valuer to assess the market value of the land as on 01.04.1981. The assessee filed the Valuation Report of the approved valuer before the Id.CIT(A) and submitted that as per Valuation Report market value of land as on 01.04.1981 is certified as Rs.5,50,000/-. The Id.CIT(A), after considering the submissions and Valuation Report has rejected the prayer of the assessee and upheld the order of AO. Aggrieved, the assessee is in appeal before us.

6. The Id.Counsel submitted that the assessee is only disputing the cost of acquisition of land and not any other adjustment made by Id. Assessing Officer. His limited prayer was that the matter may set aside to AO for referring the

matter to Valuation Officer to ascertain the cost of acquisition of land as on 01.04.1981. The Id.DR opposed any interference in the computation.

7. We have heard the rival submissions and orders of the lower authorities. The sole issue before us is the cost of acquisition of land as on 01.04.1981. During the appellate forum, the assessee has filed the Valuation Report of approved valuer which is at huge variance with the valuation adopted by Id. Assessing Officer regarding cost of acquisition of lands. Considering this fact, accepting the limited prayer of the Id. AR we remit the assessment to AO for limited purpose to ascertain cost of acquisition of lands inter-alia by making reference to District Valuation officer (DVO) etc. The assessee is directed to substantiate its claim. The Ld. Assessing Officer may re-adjudicate the issue of cost of acquisition after affording opportunity of being heard to the assessee.

8 In result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 14th August, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai:

दिनांक Dated :14-08-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER