

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./ITA No.: **391/Chny/2024**

निर्धारणवर्ष / Assessment Year: 2016-17

Income Tax Officer,
International Taxation,
Ward -2(2),
Chennai.

Shri. Somu,
v. No. 19, Ramasamy Street,
T.Nagar,
Chennai-600 017.

[PAN: FNBPS-2081-A]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/Appellant by

: Smt. M.S. Deeptha, JCIT

प्रत्यर्थीकीओरसे/Respondent by

: Ms. Krishna Laasya V, Advocate &
Ms. Bharathi Krishnaprasad, CA

सुनवाई की तारीख/Date of Hearing

: 08.08.2024

घोषणा की तारीख/Date of Pronouncement

: 14.08.2024

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal by the revenue is filed against the order of the Commissioner of Income Tax (Appeals)-16, Chennai, for the assessment year 2016-17, vide order dated 05.01.2024.

2. The revenue has raised the following grounds of appeal:

"1. Whether in facts and circumstances of the case and in law, the Ld. CIT(A) is right in deleting the addition made amounting to Rs.

4,19,50,000/- on account of unexplained investments made in, purchase of property u/s 69 of the Act and Rs.2,546/- under Income from Other Sources.

2. Whether in facts and circumstances of the case and in law, the Ld.CIT(A) is right in accepting the assessee's claim without verification of the bank account statements available on record, since, the transactions a:e not reflecting in the bank account statements of the assessee.

3. Whether in facts and circumstances of the case and in law, the Ld.CIT(A) is right in accepting the additional evidences submitted by the assessee without providing an opportunity to the AO as per Rule 46A(3) of Income-tax Rules.”

3. The brief facts are that, the assessee is a non-resident individual and has filed his return of income for the assessment year 2016-17 on 21.08.2016. During the relevant assessment year, the assessee has purchased two immovable properties for an amount of Rs. 4,68,00,000/- and Rs. 3,71,00,000/- on 24.02.2016, jointly along with his brother at Chennai. The return of income was reopened u/s. 147 of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) by issuing notice u/s. 148 of the Act, dated 30.03.2021.

4. The ITO, International Taxation Ward 2(2), Chennai (AO) passed assessment order on 20.05.2022, by making addition of Rs.4,19,50,000/- (50% share) as unexplained investment in purchase of property and taxed u/s. 115BBE of the Act, in spite

of furnishing all the documents relating to obtaining of loan both from DHFL and Axis Bank for purchase of above said properties. The Assessing Officer, has not considered the loan amount as source of funds, for the reason that the entire loan received from two financial institutions has not been reflected in the bank statements of the assessee.

5. Aggrieved by the order of the Assessing Officer, the assessee filed an appeal before the Id. CIT(A)-16, Chennai. The Id. CIT(A), after going through the documents and details furnished by the assessee like sale deeds of the properties purchased, loan statements of DHFL, Axis Bank and corresponding bank statements of the assessee has drawn a conclusion that, the source of funds for purchase of immovable properties have been properly explained and passed an order as below and deleted the additions made by the Assessing Officer:

"4.1 A perusal of the loan accounts of the appellant with Axis Bank and Dewan Housing Finance and the bank accounts of the father and brother of the appellant, clearly demonstrate that the source for the purchase of properties is from loans obtained by the appellant as well as his relatives. The EMI payments subsequent to the transaction, the bank account statement of the relatives of the appellant clearly demonstrate that the payments made are from clear explained sources and hence the investment made in the property does not partake

the character of "Unexpected investment/money" u/s. 69. Thus, the conjoint grounds of appeal no. 1,2 and 3 are allowed. Ground of appeal no. 4 being generic is not adjudicated upon.

5. In result, the appeal stands allowed."

6. Aggrieved by the order of the Id. CIT(A), the revenue has preferred this appeal before us. The Id. DR, assailed the impugned action of Id. CIT(A) and submitted that the loans borrowed by the assessee has not been reflected in the bank account statement of the assessee and despite the Id. CIT(A) has erred in deleting the additions. Therefore, he prays that order of the Id. CIT(A) be reversed and Assessing Officer order should be upheld.

7. Per contra, the Id. AR of the assessee, took us through the paper book, wherein the relevant documents placed in Paper book, which consists of 126 pages along with the table capturing the nature, source of funds and amount for acquiring both the immovable properties along with his brother. The Id. AR, also took us through the sale deeds of both the properties found placed at Pages 34 to 60 and 61 to 87 of paper book for sale consideration of Rs.3,71,00,000/- and Rs.4,68,00,000/- respectively; and corresponding details of payments of sale

consideration made to the seller from time to time. The Id. AR also brought to our notice the relevant documents for purchase of immovable properties from M/s. DHFL and M/s. Axis bank Ltd, along with the respective loan statements issued by the financial institutions for having paid the said amounts directly to the sellers. The Id. AR also drew our attention to the tabular form which shows the complete source of funds for purchase of immovable properties along with payments made towards stamp duty, registration charges and corresponding TDS payments of each party and pleaded that action of Id. IT(A) be not disturbed. The Id. AR also relied on the order of the Tribunal in the case of Mr. Ramu Palaniappan in ITA No. 1526/Chny/2023, dated 08.05.2024, (who is the brother of the assessee and jointly purchased remaining 50% of the properties) which has been held in favour of assessee by dismissing the appeal of the revenue. Wherein, the facts of the case are same, since the appellant is the joint holder (50%) of the properties of the impugned order and prayed for dismissing the appeal of the revenue.

8. We have heard the rival contentions and gone through the records placed before us and after the issue before us is

whether assessee has been able to prove the source of funds for purchasing the immovable properties is question. As noted (supra), we find that the assessee had furnished all the details of immovable properties acquired during the relevant year and corresponding sources of funds along with the bank statements at the time of assessment as well as before the Id. first appellate proceedings. We note that assessee has discharged its burden to prove the source of purchase by adding relevant details, which the Assessing Officer could not find fault/defect. In such a scenario, the action of the Id. CIT(A) having examined the relevant loans have been borrowed from DHFL to the tune of Rs.3,56,00,000/- and Axis Bank at Rs.2,78,25,000/- and the same have been directly paid to the seller M/s. Ruchi Food Products, which fact have duly been reflected in the respective sale deeds of immovable properties; and further we note that the father of the assessee has given on various dates funds to acquire the properties to the tune of Rs.2,71,95,080/- which also towards payment of sale consideration to the seller along with the payments towards registration charges, stamp duty and TDS obligation for purchase of immovable properties which facts are corroborated.

9. Taking note of the relevant evidences and documents as noted (supra), and also following Tribunal's decision in assessee's brother's case for the remaining 50% of the properties, which was held in favour of the assessee, we find that the assessee has discharged the burden to prove the sources of funds for acquiring both the immovable properties jointly with his brother. Therefore, the findings of fact made by Id. CIT(A) cannot be faulted and therefore, we uphold it. Hence, appeal filed by the revenue stands dismissed.

10. In the result, appeal filed by the revenue is dismissed.

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

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष/Vice President

Sd/-
(एस. आर.रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 14th August, 2024

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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