

आयकर अपीलीय अधिकरण “ए” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHENNAI

मजनीय श्री महवीर सिंह, उपाध्यक्ष एवम्
मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VP AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं. ITA No.1242/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2019-20)

Shri Sarangabani Kirubakaran 17/6, First Pillayar Koil Street, Ekkatuthangal, Chennai-600 032.	बनम् / Vs.	DCIT Circle-1(2) Chennai.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. BUMPK-0892-B		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकी ओरसे/ Appellant by	:	Ms. T.V. Muthu Abirami (Advocate)-Ld.AR
प्रत्यर्थीकी ओरसे/ Respondent by	:	Shri Nilay Baran Som (CIT) -Ld. DR

सुनवाईकी तारीख/ Date of Hearing	:	25-07-2024
घोषणाकी तारीख / Date of Pronouncement	:	04-09-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2019-20 arises out of the common order of learned Commissioner of Income Tax (Appeals)-18, Chennai, [CIT(A)] dated 13-09-2023 in the matter of an assessment framed by the Ld. AO u/s.153C of the Act on 31-03-2022. The sole grievance of the assessee is computation of Long-Term Capital Gains (LTCG) of Rs.8.34 Lacs.
2. The Ld. AR advanced arguments on merits and also raised additional grounds of appeal which assail assessment proceedings on legal grounds. The Ld. CIT-DR, on the other hand, justified addition as

made in the assessment order. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

Proceedings before lower authorities

3.1 Pursuant to search action on M/s Lotus-G Square group on 29-01-2019, the proceedings u/s 153C were initiated against the assessee. The assessee's case was notified to Central Circle 1(2) and was centralized vide PCIT's notification no. No. ITBA/COM/F/17/2021-22/1035646573(1) in C.No./272A/Cent./PCIT-1 dated 13-09-2021. Subsequently, a notice u/s 153C was issued to the assessee on 22-09-2021. The assessee admitted income of Rs.7.79 Lacs. After considering assessee's reply, Ld. AO made certain addition of LTCG which, upon confirmation by Ld. CIT(A), is in further appeal before us.

3.2 It transpired that the assessee, along with his daughter, sold 92 cents of land at Chengalpattu, Kancheepuram District to M/s Stellar Quarries Private Ltd. The assessee's share in the sale consideration was Rs.10 Lacs. The assessee submitted that it was agricultural land and therefore, exempt from tax. However, Ld. AO held that the land was vacant urban land. The assessee did not establish that the land was put for agricultural purposes. Accordingly, Ld. AO computed LTCG of Rs.36.60 Lacs and the assessee's share therein i.e., 22.8% worked out to be Rs.8.34 Lacs which was added to the income of the assessee. The Ld. CIT(A) confirmed the action of Ld. AO against which the assessee is in further appeal before us.

4. We find that similar issue has been decided by us in assessee's appeal for AY 2014-15, ITA No.1237/Chny/2023 as under: -

Our findings and Adjudication

4. So far as the assessment of Long-Term Capital Gains (LTCG) on sale of land is concerned, it could be seen that the assessee family own this land from 1954

onwards. The assessee is stated to be have carried out agricultural activities on the same. In support of the same, the assessee had furnished encumbrance certificate, Patta, Adangal, Fasali issued by VAO Kolapakkam etc. The assessee also furnished clarification of land used certificate issued by district revenue authority and letter from PIO dated 16-03-2022 and certificate from Tehsildar to support the same. It is the submission of the assessee that the land was classified as agricultural land and it was put to use for agricultural and a wetland. This fact has also been accepted by Ld. AO. The only reason to disallow the same is the allegation that the assessee is not able to show the carrying out of agricultural activities on the said land. We are of the considered opinion that as long as the land is classified as agricultural land and the same is sold as such then in such a case, the purpose for which the purchaser would use the land would be immaterial. It is also not necessary that the assessee should have earned agricultural income in earlier years so as to lay claim on this deduction. The receipt of agricultural income is immaterial. The fact that the land is situated in developed area is also immaterial. Nevertheless, in the present case, agricultural use is established by Adangal and revenue records like encumbrance certificate. The assessee has furnished sufficient documentary evidences that the said land was classified as agricultural land and the land was used for agricultural activities. The fact that the land was situated beyond 8 Kms. was also established by the assessee by producing the letter from Tehsildar which state that the land was outside 8 Km from Tambaram Municipality. The Ld. AO has not controverted the documents furnished by the assessee and disregarded the claim on mere suspicion which could not be sustained in the eyes of law. Our view is duly supported by the decision of Hon'ble High Court of Madras in the case of **Mrs. Shakuntala Vedachalam vs. ACIT (53 Taxmann.com 62)**. In that case, the assessee sold agricultural land and claimed exemption from capital gains. The Ld. AO deputed field staff who reported that the land was dry land and no agricultural activities were undertaken by the assessee. Accordingly, Ld. AO rejected the claim by holding that the land sold was not agricultural land and therefore, brought entire gains to tax under the head capital gains. The first appellate authority found that the land was classified as agricultural land and as per revenue record the land squarely fell within the definition of agricultural land and therefore, allowed the claim of the assessee. The Tribunal reversed the stand of Ld. CIT(A). Upon further appeal by the assessee, Hon'ble High Court of Madras held that once it was accepted fact that the land was classified as agricultural land as per revenue records, the claim could not be denied. It was further observed that the manner in which the adjacent lands were used by the owner would not be a ground to come to a conclusion that the land was not agricultural in nature. Similar is the subsequent decision of Hon'ble High Court of Madras in the case of **CIT vs. P. Ashok Kumar (TCA No.268 of 2011 dated 02-01-2019)**. In this decision, the land was classified and sold as an agricultural land. The Hon'ble Court held that though there may not be any cultivation carried as per land records, there was nothing on record to show that the land in question was used for any non-agricultural purposes and therefore, the assessee's claim was correct. This decision also supports the case of the assessee. Accordingly, we direct Ld. AO to accept the claim of the assessee. The corresponding grounds stand allowed.

Facts being pari-materia the same in this year, we direct Ld. AO to accept the claim of the assessee. The corresponding grounds of appeal stand allowed.

5. The Ld. AR has raised legal issue on jurisdiction u/s 153C which has been rendered mere academic in nature.

6. The appeal stand allowed in terms of our above order.

Order pronounced on 4th September, 2024

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / **VICE PRESIDENT**

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated :04-09-2024
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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