

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

श्री एबी टी वर्की, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI ABY T VARKEY, HON'BLE JUDICIAL MEMBER AND**  
**SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकरअपीलसं./**ITA No.: 583 /Chny/2022**

निर्धारणवर्ष / Assessment Year: 2013-14

Shri. D. Ramagopal,  
14-a, 10<sup>th</sup> Street,  
Ganapathypudur,  
Ganapathy,  
Coimbatore – 641 006.

**[PAN: AKGPR-3621-L]**

(अपीलार्थी/Appellant)

Deputy Commissioner of Income  
v. Tax,  
Central Circle -1,  
Coimbatore.

(प्रत्यर्थी/Respondent)

आयकरअपीलसं./**ITA No.: 584/Chny/2022**

निर्धारणवर्ष / Assessment Year: 2014-15

Shri. D. Ramagopal,  
14-a, 10<sup>th</sup> Street,  
Ganapathypudur,  
Ganapathy,  
Coimbatore – 641 006.

**[PAN: AKGPR-3621-L]**

(अपीलार्थी/Appellant)

Principal Commissioner of  
v. Income Tax,  
Central Circle -2,  
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/Appellant by : Shri. G.V. Jhabakh, Advocate

प्रत्यर्थीकीओरसे/Respondent by : Shri. Nilay Baran Som, CIT

सुनवाई की तारीख/Date of Hearing : 06.08.2024

घोषणा की तारीख/Date of Pronouncement : 23.10.2024

**आदेश / O R D E R**

**PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:**

These appeals filed by the assessee are directed against  
the common order passed by the learned Commissioner of

Income Tax (Appeals)-19, Chennai, dated 25.05.2022 and pertains to assessment years 2013-14 & 2014-15.

2. The Assessee has raised the following grounds of appeal for the A.Y.2013-14:

*1. The assessing officer and the Id.CIT(A) erred in making addition as Long Term capital Gain without considering the expenses involved therein.*

*2. The assessing officer and the Id.CIT(A) also not considered the agriculture income and treating the income at nil without considering the agriculture expenses.*

*3. The assessing officer and the Id.CIT(A) erred in not considering the sources taxed by the same assessing officer for the assessment year 2009-10, 2011-12 and 2012-13 which is in plenty available was also not considered.*

3. The brief facts of the case are that, the assessee engaged in Finance Business since 1989 and closed the Business in 2003 due to Economic offence cases with police and court by Public Depositors for Non-refund of their dues. The assessee has to run from pillar to post engaging lawyers, court expenses for stay and recovery of Business dues, travelling, lawyers' expenses and boarding and lodging expenses. The statements recorded was not in a proper atmosphere and under compulsion and also contradictory to the facts and legal issues. A search u/s.132 was conducted at the premises of the

appellant on 27.11.2013. Various documents pertaining to the investments and property dealings were found during the course of search. The assessee did not respond for the notices issued u/s.153A and failed to file the return of income. Finally, the assessee filed the return of income in response to notice 153A on 02.01.2016 by declaring Nil income and agricultural income of Rs.7,43,000/-. The assessment was completed after providing opportunities to the appellant u/s.153A of the Act on 30.03.2016 by adding interest from fixed deposits of Rs.41,144/- and arriving the long-term capital gain to Rs.26,81,928/- by rejecting certain expenditure claimed as cost of acquisition and improvement of the capital asset and the claim of agricultural income of Rs.7,43,000/- was ignored by considering the claim as bogus.

4. The assessee had sold the property at Coonoor and offered Capital Gain at Rs.85,069/- and later claiming a loss at Rs.6,644/- by filing a revised computation of capital gain. The expenses claimed for building renovation, cleaning was not allowed by the assessing officer. The written submissions along with documentary evidence in the paper book filed before the Id.CIT(A)-19 were not considered and the Id.CIT(A) confirmed

the addition by passing an order on 27.04.2016 and hence the appellant is before the ITAT and plead to allow the appeal.

5. The Ld.AR assailing the action of the Id.CIT(A), stated that the impugned order has been passed without considering the valuation applicable u/s.50C of the Act for the capital assets sold during the impugned assessment year. In support of the same the Ld.AR filed a copy of two notarized 'sale agreement' entered on the same day i.e. 15.03.2012 at Coimbatore between the assessee and the Purchasers Sri.C.V.Abbas for 7.25 Cents and Sri A.S.Sundaram for 4.5 cents for sale of properties held at Coonor for a sale consideration of Rs.11,71,000/- and Rs.6,90,000/- respectively. The Ld.AR further submitted that the guidance value as on 15.03.2012(sale agreement date) was only Rs.245/- per sq. ft. and prayed for considering the same for the purpose of computation of long-term capital gain.

6. Further, the Id.AR argued that both the AO and Ld.CIT(A) have erred in rejecting the cost of improvement paid towards court fees of Rs.6,12,328/- paid towards proceedings with TNPID, which is recorded in the registered sale deed. The

Ld.AR also stated that the lower authorities have failed to consider the claim of expenses of brokerage paid on sale, eviction expenses to the tune of Rs.6.00 Lakhs paid to three occupants while arriving the capital gains on the sale of properties.

7. Per contra, the Id.DR stated that the assessee had not produced any evidence during the assessment and appellate proceedings and hence prayed for dismissing the appeal of the assessee.

8. We have heard the rival contentions, gone through the material available on records and the orders of the lower authorities. The assessee has sold two properties during the assessment year 2013-14 measuring 7.25 cents to Sri. C.V.Abbas for Rs.11.71 Lakhs with an agreement to sell entered on 15.03.2012 and executed registered sale deed on 18.09.2012 and 4.50 cents to Sri.A.S.Sudaram for Rs.6.90 Lakhs with an agreement to sell entered on 15.03.2012 and executed a registered sale deed on 05.12.2012. According to Id.AR the guidance value applicable was Rs.245/- per square feet, applicable as per Section 50C of the Act on the date of

agreement to sell entered on 15.03.2012. Therefore, according to the Ld.AR the lower authorities have erred in adopting sale consideration of Rs.27.50 Lakhs and Rs.8.00 Lakhs respectively for 2 properties to arrive at the long-term capital gain.

9. We note that the assessee has entered into an 'agreement to sell' on 15.03.2012 with the two separate purchasers for selling two properties of 7.25 cents and 4.50 cents for Rs.11.71 Lakhs and Rs.6.90 Lakhs and according to the claim of the AR the guidance value as per the state stamp duty authorities was Rs.245/- per sq.ft on the date of entering into sale agreement. Therefore, in the facts and circumstances of the case, keeping in the mind that the guidance value as per section 50C of the Act was Rs.245/- per sq.ft. as on that date, we are of the considered view that the AO and that of Id.CIT(A) have erred in considering the sale consideration as Rs.27.50 Lakhs for 7.25 cents and Rs.8.00 lakhs for 4.50 cents. Hence, we direct the AO to consider the sale consideration shown as per the registered sale deed or Rs.245/- per sq.ft. whichever is higher as sale value for computing the long-term capital gain.

10. Further, the claim of the AR with regard to rejection of sales commission, cost of improvement, renovation expenses, payment made to vacate the tenants and court fees, we note that the Id.AR has failed to provide any documentary evidences for these expenditures, except for payment of court fees paid to the extent of Rs.6,12,328/- paid to TNPID Court, towards removal attachment on the properties in connection with default for non-payment of public deposits. Therefore, we are of the considered view that the amount of Rs.6,12,328/- is allowable for deduction to compute the long-term capital gain from the sale consideration of immovable properties and direct the AO to recompute the LTCG accordingly.

11. In the result the appeal of the assessee is partly allowed.

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12. After the search proceedings u/s.132 of the Act conducted on 27.11.2013, many statutory notices were issued to assessee to file the return of income but assessee has not complied with. Later, the AO proceeded with the penalty proceedings for non- filing returns and issued notice u/s.142(1) of the Act and finally the assessee filed return of income on

30.01.2016 admitting an Income of Rs.5,960/- and agricultural income of Rs.5,73,300/-. Further, statutory notices were issued to assessee by calling for information to frame the assessment u/s.143(3) of the Act. During the course of assessment proceedings the assessee filed the receipts of agricultural income and explained that the same has been deposited to the bank to the tune of Rs.5,07,000/- during the impugned assessment year. After verification AO passed an order u/s.143(3) on 30.03.2016 by rejecting the source of agricultural income towards cash deposits made to the assessee's bank account and made an addition of Rs.5,07,000/- as unexplained money u/s.69C of the Act. Further, the AO also added an interest of Rs.39,624/- on fixed deposit, which was not shown by the assessee.

13. Aggrieved by the order of the AO, the assessee preferred an appeal with Id.CIT(A) – 19, Chennai and the Id.CIT(A) has confirmed the same in his order dated 27.04.2016 by holding as under :

"7. Issue no. 2- Cash Credit in the bank account and Cash account amounting Rs. 5,07,000/-

*7.1. During the course of assessment proceedings, the AO has come across cash credit in his bank account amounting Rs.5,07,000/-. The appellant submitted before the AO that the cash deposits in the bank accounts was from the agricultural*

*income earned. As the appellant has not produced any evidence about the earning of income from agricultural activities the Assessing Officer treated the cash deposit as unexplained as per the provisions of section 69C of the Act.*

*7.2. In the written submission it has been claimed that he has not credited the agricultural income in the capital accounts and the addition is based on only surmise. It has been further contended that as the income was not credited in the books of accounts the addition in this account is uncalled for.*

*7.3. The submission of the appellant has been examined. There is no dispute about the cash deposit into the bank account amounting Rs.5,07,000/-. The appellant has to necessarily explain the source for such deposits. During the course of appellate proceedings also, the appellant has not made any attempt to either to prove the source or the bank account does not to him. In the absence any such claim or evidence the contention of the appellant is not acceptable. In this background the grounds raised by the appellant upon this issue are dismissed."*

Aggrieved by the order of the Id.CIT(A), the assessee is before this Tribunal.

14. The Ld.AR argued that the Id.CIT(A) has erred in confirming the addition of Rs.5,07,000/- u/s.69C even though the assessee has shown the agricultural receipts as his source of income for depositing into his bank account. The Ld.AR filed the written submission as given below:

**"Un-explained investment in bank accounts.**

*The Assessing officer has treated the Agricultural Income claim at Nil from the Assessment year 2008-09 to 2013-14 and now claims that the receipts were credited in the bank accounts without any data or particulars has treated the same under section 69C as unexplained investment is without any proper basis and against the principles of taxation and accounting.*

*The assessee has not credited the Agricultural income in the capital accounts and the addition is based on only surmise. The assessee has recorded the statements u/s.131 that the income was never credited in the books of accounts for all the assessment years and utilised for his personal drawings is accepted by the Assessing officer **in Page 6 for Asst. orders for the assessment years 2008-09 to 2013-14** and the addition on this account is uncalled for and the same may be ordered to be deleted."*

15. Per contra, the Ld.DR relied on the orders of lower authorities and prayed for confirming the same.

16. We have heard the rival contentions, gone through the material available on records and the orders of the lower authorities. The facts stated here in above are not repeated for sake of brevity and it is not disputed that the assessee owns agricultural land at Ravathur Pirivu and Yelaneli Village, Coonor district and has been carrying on the agricultural activities, which assessee claims to have yielded agricultural income to the tune of Rs.7,31,950/- and has furnished evidences in the form of agricultural receipts like 'mandi receipts' (totaling to Rs.7,31,950/-) along with bills towards expenses and brought to our notice that agricultural receipts have been regularly deposited to the bank and which comes to Rs.5,07,000/- (receipt - expenses). Further, the assessee's assertion that he has been carrying on agricultural activities from many years,

and depositing the same in the bank has not been disputed. Considering the material placed on record and documents (Supra), we are of the opinion that the source explained by the assessee in respect of deposit of Rs.5,07,000/- cannot be rejected and hence we set aside the order of the Id.CIT(A) and direct the AO to delete the addition of Rs.5,07,000/- by allowing the ground of the assessee.

17. In the result the appeal of the assessee is allowed.

18. As a result, appeal filed by the assessee for assessment year 2013-14 in ITA No. 583/Chny/2022 is partly allowed and appeal filed by the assessee for assessment year 2014-15 in ITA No. 584/Chny/2022 is allowed.

Order pronounced in the open court on 23<sup>rd</sup> October, 2024 at Chennai.

**Sd/-**  
(एबी टी वर्की)  
**(ABY T VARKEY)**  
न्यायिक सदस्य/**Judicial Member**

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

चेन्नई/Chennai,

दिनांक/Dated, the 23<sup>rd</sup> October, 2024

**JPV**

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT – Chennai, Coimbatore

4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF