

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

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
मजनीय 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.2498/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2016-17)

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| Mrs. Subaitha Khani Sagul Hameethu L/H of late A.Sagul Hameethu #681, Kottaipattinam, Manamelkudi-614 619. | बनम/ Vs. | ITO Ward-1, Pudukottai. |
| स्थायी लेखासं./जीआइआरसं./PAN/GIR No. BJQPH-6104-Q | | |
| (अपीलार्थी/ Appellant) | : | (प्रत्यर्थी / Respondent) |

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| अपीलार्थी की ओरसे/ Appellant by | : | Shri Y. Sridhar (FCA)- Ld.AR |
| प्रत्यर्थी की ओरसे/ Respondent by | : | Shri S. Easwar (JCIT)-Ld. Sr. DR |

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| सुनवाई की तारीख/ Date of Hearing | : | 16-12-2024 |
| घोषणा की तारीख / Date of Pronouncement | : | 17-12-2024 |

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by legal heir of deceased assessee for Assessment Year (AY) 2016-17 arises out of an order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 31.07.2024 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 147 r.w.s 144 of the Act on 26.05.2023. In the assessment order, Ld. AO made addition

of Rs.12.38 Lacs u/s. 56(2)(vii) on the ground that the stamp duty value of the purchased property was more than the registered value.

2. The Ld. AR, at the outset, raised a pertinent legal ground and submitted that the assessment is nullity since the case has been reopened beyond 3 years and quantum of income escaped is less than Rs.50 Lacs. In such a case, the case could not be reopened in terms of Sec.149 (1)(b) which provide that no notice u/s 148 would be issued for relevant AY if three years, but not more than ten years, have elapsed from the end of the relevant AY unless the assessing officer has in his possession books of accounts / documents / evidence etc. which reveal that income chargeable to tax which has escaped assessment amounts to or is likely to amount to Rs.50 Lacs or more. The aforesaid position could not be controverted by revenue.

3. From assessment order, it emerges that case of the assessee for AY 2016-17 was reopened and notice u/s 148 was issued on 18.07.2022. The case was reopened on the ground that the stamp duty value of the purchased property was more than the registered value by Rs.12.38 Lacs. The same was accordingly added to the income of the assessee u/s 56(2)(vii). The Ld. CIT(A) confirmed the same for want of any representation from the assessee.

4. It is quite clear that the case has been reopened beyond 3 years and the quantum of escapement of income is less than the prescribed threshold limit of Rs.50 Lacs. The same clearly contravene the statutory provisions of Sec. 149(1)(b). Our view is duly supported by the decision of Bangalore Tribunal in the case of **Smt. Nelamma (ITA No.1721/Bang/2024 dated 12.12.2024)** as referred to by Ld. AR.

Accordingly, the impugned assessment stand quashed. We order so. Delving into other grounds has been rendered academic exercise.

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

Order pronounced on 17th December, 2024.

Sd/-
(MANU KUMAR GIRI)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated : 17-12-2024
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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