

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.525/Chny/2025
Assessment Years: 2019-20

Sangeetha Duraisamy,
No.2/369, Manjulam Pallam,
Vellalapatti,
Salem,
Tamil Nadu-636 012
[PAN: ETSPD8813H]

The Income Tax Officer,
International Taxation Ward,
Coimbatore.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by
प्रत्यर्थी की ओर से /Revenue by

: Shri P.M.Kathir, Advocate
: Ms.E.Pavuna Sundari, CIT

सुनवाई की तारीख/Date of Hearing

: 15.05.2025

घोषणा की तारीख /Date of Pronouncement

: 30.05.2025

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed by the assessee against the order bearing DIN & Order No.ITBA/AST/S/147/2024-25/1072038250(1) dated 09.01.2025 for AY-2019-20 of the Ld.Assessing Officer passed in pursuance to directions of the Ld.DRP through its order vide No.ITBA/DRP/M/144C(5)/2024-25/1071603899(1) dated 27.12.2024 of the Dispute Resolution Panel-2, Bengaluru.

2.0 Brief factual matrix of the case is that based upon information available with the Ld.AO that the assessee had not disclosed purchase of

an immovable property action u/s 147 was taken by the department. After conducting its enquiry and investigations, the Ld. AO made addition of Rs.15,18,466/- as unexplained investment u/s 69 and another amount of Rs.5,56,500/- on account of as unexplained income from other sources u/s 56. As regards the addition of Rs.15,18,466/- , the Ld.AO premised that as per the registered sale deed, the assessee had made the investment in cash of Rs.20 lakhs out of which Rs.15,18,466/- was unexplained and hence the same was added u/s 69. Further, the Ld.AO noted that the stamp duty valuation of the property was Rs.25,56,500/- and that since the assessee had shown value of only Rs.20 lakhs, it was liable for addition of differential amount of Rs.5,56,500/-. The action of the Ld.AO was confirmed by the Ld.DRP.

3.0 The first issue thus raised by the assessee through its grounds of appeal is regarding the addition of Rs.15,18,466/- made by the Ld.AO on the premise that the same represented unexplained investments in cash in the impugned property. The Ld. Counsel for the assessee submitted that even though the amount of consideration in the sale deed dated 22.06.2018 was mentioned as Rs.20 lakhs in cash, the fact of the matter is that assessee's husband is an NRI and he had transferred the impugned amount of Rs.15,18,466/- directly to the Account of the seller by way of foreign remittances. Thus it was submitted the twin amounts of Rs.7,59,233/- were transmitted to sellers account by way of foreign

remittances by her husband on 20/02/2018. The Ld.AR has placed by way of a paper book, necessary documents in support of its contentions. It was contended that impugned evidences were produced before the lower authorities which have been omitted to be considered.

4.0 Per contra, the Ld.DR argued in favour of the order of lower authorities.

5.0 We have heard rival submissions in the light of material available on records. We have noted from the paper book filed by the assessee that there has been a direct transfer of foreign remittances, from accounts of assessee's husband to the bank account of the prospective seller namely Shri K.Balakrishnan. The Ld.AO and DRP have taken an erroneous view that the facts recorded in the sale deed are to be treated as gospel truth. Whereas, facts and figures mentioned in the sale deed are to be taken as correct yet at the same time there is always a need to look beyond the picture and understand a controversy in its strict contextual scenario. Merely because sale deed said that the amount was paid in cash the same should not have been accepted particularly in view of the fact that the assessee was making alternative statements and supporting the same through documentary evidences. Accordingly, we set aside the order of the lower authorities and direct the Ld.AO to verify from the original bank account copies regarding the movement of foreign remittances to the account of the prospective seller namely Shri

K.Balakrishnan and in the event the same is found to be true, then to delete the impugned addition of Rs.15,18,466/-. The assessee shall be bounden to provide all necessary details to the Ld.AO and any non-compliance shall be adversely viewed. The assessee shall also be entitled for due opportunity of being heard. **All the grounds of appeal raised on this issue are allowed for statistical purposes.**

6.0 The next issue raised by the assessee through its grounds of appeal is regarding the addition of Rs.5,56,500/-, made by the Ld.AO within the meanings of section 56(2)(x)(b) r.w.s 50C of the Act on account of differential amount between the stamp duty valuation of the property of Rs.25,56,500/- vis-à-vis the amount paid by the assessee of Rs.20 lakhs. On the issue of addition of Rs.5,56,500/-, the Ld. Counsel argued that it was not aware of the stamp duty valuation of Rs.25,56,500/- on the date of registration of the sale deed on 22.06.2018 and that it was brought to its knowledge by the Sub-Registrar office only on 16.07.2018 hence though assessee proceeded to pay the additional stamp duties without any protest, no alteration was done qua the sale price which was true FMV of the impugned property. It was stated that the proposal of the Ld.AO to adopt the stamp duty valuation was thus objected to. The Ld. Counsel vehemently argued that the Ld.AO ought to have referred the case for valuation to the registered valuer within the meanings of section 50C(2). The Ld. Counsel accordingly argued that the matter may kindly

be remitted back to the Ld.AO for making a reference to the registered valuer within the meanings of section 50C(2) and to take a decision accordingly.

7.0 Per contra, the Ld.DR relied upon the order of the lower authorities.

8.0 We have heard rival submissions in the light of material available on records. There is no denying the fact that section 50C of the Act postulates adoption of stamp duty valuation for calculation of capital gains. Section 50C(2) however also postulates that in the event of any dispute or disagreement the Ld.AO has been empowered to make a reference to the registered valuer and whose valuation would have to be accepted by the rival parties. We have noted that in the instant case the same was not done. Be that as it may be, in the interest of the justice, we deem it appropriate to remit the matter to the file of the Ld.AO for making a reference to the registered valuer and to consequently adopt the value so determined for determination of any taxable income in the hands of the assessee. We therefore set aside the order of the lower authorities and direct the Ld.AO to make an assessment de novo on this point after considering the report of the registered valuer. The assessee is directed to comply with all the notices of the Ld.AO and of the registered valuer on this issue. Accordingly, all the grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order pronounced on 30th, May -2025 at Chennai.

Sd/-

(एबी टी. वर्की)

(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 30th, May -2025.

KB/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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