

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस.आर. रगुनाथा, लेखा सदस्य के समक्ष
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri S.R. Raghunatha, Accountant Member

आयकर अपील सं./I.T.A. No.1676/Chny/2025
निर्धारण वर्ष/Assessment Year: 2016-17

The Deputy Commissioner of
Income Tax,
Central Circle 2(2),
Chennai.

Vs. Anbezil Suryaraj Kumar,
Flat No. G.2, Aarudhira Flats, 4th Street,
Anna Nagar, Chennai 600 040.

[PAN:AETPA4862K]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Shiva Srinivas, CIT
प्रत्यर्थी की ओर से/Respondent by : Shri D. Anand, Advocate
सुनवाई की तारीख/ Date of hearing : 10.09.2025
घोषणा की तारीख /Date of Pronouncement : 13.10.2025

आदेश / O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal filed by the Revenue is directed against the order dated 04.03.2025 passed by the Id. Commissioner of Income Tax (Appeals) – 19, Chennai for the assessment year 2016-17.

2. We find that this appeal is filed with a delay of 9 days. The DCIT Central Circle 2(2), Chennai filed an affidavit for condonation of delay stating the reasons. Upon hearing both the parties and on examination of the said affidavit, we find the reasons stated by the Appellant-

Revenue are bonafide, which really prevented in filing the appeal in time. Thus, the delay is condoned and admitted the appeal for adjudication.

3. Brief facts relating to the case are that search and seizure operations were conducted in the case of M/s. Khazana Jewellery Pvt. Ltd. and others on 21.04.2016, as the assessee sold immovable property to key person in the said group, her residence was also covered. A notice under section 153A of the Income Tax Act, 1961 ["Act" in short] was issued on 10.08.2017. In response to the notice, the assessee filed return of income on 13.11.2017 showing an income of ₹.3,57,15,470/-.

4. As per the seized exhibits in ANN/KVK/JHP/B&D/F&S, the Assessing Officer noted that the assessee had received ₹.3,52,34,299/- as "on-money" over and above the registered sale value of the property located at EVK Sampath Road, Chennai along with her siblings. Further, the Assessing Officer noted that the assessee sold one property vide document No. 3167/2015 on 26.11.2015 on which the assessee received ₹.5,62,65,625/- as "on-money" over and above the registered sale value, which was admitted

by her in the sworn statement recorded under section 132 of the Act on 12.05.2016. Accordingly, the Assessing Officer show-caused the assessee as to why the said amount of ₹.9.14 crore should not be treated as unaccounted income under the head of income from other sources and to produce the supporting documents for deductions claimed in the return. After considering the reply filed by the assessee on 29.10.2018, the Assessing Officer, after recording his observations at pages 2 & 3 of the assessment order, again show-caused the assessee as to why the on-money of ₹.9.14 crores received over and above the registered value of the property should not be treated as her unaccounted income and added to the total income. After considering the submissions of the assessee as well as sworn statement recorded from Dr. Shwetha Suryaraj, daughter of the assessee, relevant paras are extracted at page 4 & 5 of the assessment order, the Assessing Officer rejected the claim of receipt of on-money as long term capital gain and added to the total income of the assessee under the head income from other sources.

5. Further, against the claim of deduction under section 54 of the Act, from the sale deed No. 3617/2015, the Assessing Officer noted that the property was certified by the SRO as vacant land. Accordingly,

the Assessing Officer rejected the claim of deduction under section 54 of the Act.

6. On appeal, the Id. CIT(A) directed the Assessing Officer to treat the on-money received as income under the head Capital Gains as well as allow the indexation benefits and deduction claimed under sections 54 & 54F of the Act. Aggrieved by the order of the Id. CIT(A), the Appellant-Revenue is in appeal before the Tribunal.

7. The Id. DR Shri Shiva Srinivas, CIT submits that the Id. CIT(A) has erred in holding that the Assessing Officer was wrong in treating the on-money in question as unaccounted as Assessing Officer failed to provide legal justification for the same without appreciating that when the Act clearly rests the burden of proof on the assessee under section 132(4A) of the Act. He further argued that the sale deed registered for the impugned property did not record the factum of the payment of on-money as recorded by the Assessing Officer and has given relief to the assessee without taking cognizance of the registered document. The Id. DR submits that when the SRO clearly certified that the impugned property as vacant land, the assessee is not eligible to claim for exemption under section 54F of the Act and thus, prayed to

set aside the order of the Id. CIT(A) and restored that of the Assessing Officer.

8. The Id. AR Shri D. Anand, Advocate submits that the actual transfer of property took place on 26.11.2015 and in this case, the search was conducted on 21.04.2016. The assessee e-filed the return of income well within the time prescribed under section 139 of the Act declaring entire cash receipts as consideration and duly offered to tax as well as the return filed in response to notice under section 153A of the Act and complete details including books of accounts, which recorded the transactions to the Assessing Officer. He further submits that no unrecorded cash was found during the search at the assessee's premises and the transaction was duly recorded in the assessee's books of accounts. The Id. AR vehemently argued that the Assessing Officer failed to provide evidence or legal justification to classify the cash consideration disclosed in the books and offered to tax in compliance with the law and wrongly presumed the same as undisclosed income that if the search had not been conducted, the assessee would not have disclosed the on-money consideration in the return of income.

9. With regard to the classification of income under the head of long term capital gain, the Id. AR submits that the assessee has claimed cost with indexation along with deductions under sections 54 and 54F of the Act for the properties sold under document Nos. 3202/2015 and 3617/2015 respectively. He further submits that the deductions for the properties were claimed under two separate provisions of the Act i.e., under section 54 of the Act for the land and building sold under document No. 3202/2015 and section 54F of the Act for the land sold under document No. 3617/2015. The Id. AR strongly supported the order passed by the Id. CIT(A) and prayed to sustain the same.

10. We have heard both the parties and perused the material available on record. In this case, it is an admitted fact that the assessee e-filed the return of income under section 139 of the Act declaring entire sale consideration, including cash received was disclosed under the heard long term capital gains. A search was conducted under section 132 of the Act on 21.04.2016. We note that the Assessing Officer presumed the cash income being undisclosed as the cash consideration received by the assessee was not reflected in the assessee's books of account. On perusal of the assessment order, we note that no cash or incriminating evidence was found at

assessee's premises during the search operation. Further, we note that during the course of assessment proceedings, the assessee submitted her books of accounts, which recorded the cash transaction and the cash consideration was admitted in her return of income filed under section 139 of the Act well within the stipulated due date. By relying upon the registered sale deed, which reflected the sale consideration and the stamp duty paid, the Assessing Officer assumed that the parties involved never intended to declare the cash portion of the consideration and speculated that had the search not been conducted, the assessee would not have disclosed the cash consideration. We note that admittedly, during the assessment proceedings, the assessee had already submitted her books of accounts to the Assessing Officer duly recording the cash consideration received. We also note that the assessee has admitted the cash consideration in the return of income filed under section 139 of the Act within the stipulated due date. But, however, the Assessing Officer presumed that the assessee would not have disclosed the cash consideration if search is not conducted, is not justified and legally unsustainable. We also note that no evidence is placed on record that the cash consideration, which was disclosed in the books of account and offered for taxation constitutes unaccounted

income under the provisions of the Act. Thus, we find no merit in the conclusion of the Assessing Officer that the transaction was unrecorded and treating the same as unaccounted income. The Id. CIT(A) has rightly observed that the Assessing Officer's treatment of the income as unaccounted income is misplaced as the Assessing Officer failed to provide evidence or legal justification to classify the cash consideration, disclosed in the books and offered to tax in compliance with the law. We fully agree with the observations recorded by the Id. CIT(A) at para 6.4.7 Thus, we find no infirmity in directing the Assessing Officer to treat the on-money received under the head capital gain, as admitted by the assessee, rather than as income from other sources and the same is justified.

11. The objection of the Id. DR with regard to the claim of deduction under section 54/54F of the Act is that the property in question was officially certified as vacant land by the SRO, it did not qualify for the deductions available under section 54 of the Act, which applies exclusively to residential properties. We note that as per computation of long term capital gain on individual property, the Assessing Officer restricted the claim of exemption under section 54F of the Act at ₹.1,89,81,211/- and for the joint property to ₹.1,39,81,211/- and treated

the on-money received amounting to ₹.3,52,34,234/- on the joint property and ₹.5,62,65,625/- on the individual property as income from other sources. On perusal of para 6.5.7 of the impugned order, we note that the assessee has clarified that the deduction for the properties were claimed under two separate provisions of the Act, i.e., under section 54 of the Act for the land and building sold under Document No. 3202/2015 and under section 54F of the Act for the land sold under Document No. 3617/2015. We note that the provision of section 54 of the Act allows for a deduction in respect of long term capital gains arising from the transfer of a residential property, provided the assessee invests the capital gains in the purchase or construction of another residential property within the prescribed time limits. Similarly, section 54F of the Act provides a deduction in respect of long term capital gains arising from the transfer of any capital asset other than a residential house, again subject to investment in a new residential property. Thus, based on the application of sections 54 and 54F of the Act, we note that the Id. CIT(A) has rightly allowed the claim of deductions on the full consideration as the same is in alignment with the earlier treatment of the cash consideration as long term capital gain by the Assessing Officer. We agree with the reasons recorded by the

Id. CIT(A) vide para 6.5.9 to 6.5.11 of the impugned order. Thus, we find no infirmity in the order passed by the Id. CIT(A) and accordingly, the grounds raised by the Appellant-Revenue are dismissed.

12. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 13th September, 2025 at Chennai.

Sd/-
(S.R. RAGHUNATHA)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 13.10.2025

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.