

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

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री जगदीश, लेखा सदस्य के समक्ष
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 923/CHNY/2025

निर्धारण वर्ष/Assessment Year: 2018-19

**The Deputy Commissioner of
Income Tax,**
Central Circle 1(2),
Chennai.

**Shri Mohamed Muyeenuddin
Vs. Pazhoor Kochu Mohamed,**
E1, 2nd Main Road,
Juhu Beach,
Sholinganallur S.O.,
Uthandi,
Kanchipuram – 600 119.

(अपीलार्थी/Appellant)

PAN: AAIPM 4366P

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri Shiva Srinivas, CIT
: Shri Darshan Bothra, CA

सुनवाई की तारीख/Date of Hearing

: 21.10.2025

घोषणा की तारीख/Date of Pronouncement

: 22.10.2025

आदेश/ ORDER

PER GEORGE GEORGE K, VICE PRESIDENT:

This appeal filed by the Revenue is directed against the order of Commissioner of Income Tax (Appeals), Chennai-18 dated 31.01.2025, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2018-19.

2. The grounds raised are as follows:-

1. *The order of the ld. Commissioner of I.T. (Appeals) is opposed to law and facts*
2. *Ld. CIT(A) erred in holding that the assessee purchased the property admeasuring 5450 Sq. ft from Mr. Vignesh and Mrs. Shanti, ignoring the evidence on record that only power of attorney was executed on 4/5/2017 in favour of assessee and his wife.*
3. *Ld. CIT (A) erred in inferring that the power of attorney itself constituted the sale deed.*
4. *Ld. CIT (A) erred in ignoring the fact that the entire sale consideration of Rs 3.10 crores was received by assessee in his bank account but there was no outward payment made by him to Mr. Vignesh or Mrs. Shanti.*
5. *Ld. CIT (A) erred in ignoring the fact that the entire TDS of Rs10 lakhs under section 194 IA on the full sale consideration, was claimed by assessee in his Return of Income filed for assessment year 2018-19.*
6. *For these grounds and any other ground including amendment of grounds that may be raised during the course of the appeal proceedings, the order of learned CIT(Appeals) may be set aside and that of the Assessing Officer be restored.*

3. Brief facts of the case that are necessary for adjudication of the issue raised in the above grounds are as follows: The assessee is an individual receiving income from brokerage and commission from real estate business. For the assessment year 2018-19, return of income was filed u/s.139(1) of the Act on 31.08.2018 declaring total income of Rs.30,65,160/-. There was a search and seizure action u/s.132 of the Act in the residential / business premises in the case of M/s. Lotus – G Square group on 29.01.2019. The residential premises of the assessee was also

covered u/s.132 of the Act on 29.01.2019. Subsequent to the search, a notice u/s.153C of the Act was issued to the assessee on 15.04.2021 calling for filing of the return of income. In response to the notice issued u/s.153C of the Act, assessee filed the return of income on 20.04.2021 admitting total income of Rs.30,65,160/-. During the course of assessment proceedings pursuant to the search, the AO noticed that assessee had sold a property for a consideration of Rs.10.10 crores. On examination of the sale deed dated 05.05.2017, it was noticed that assessee along with two other vendors had sold the said property. However, since the entire sale consideration of Rs.10,10,00,000/- was received by the assessee and TDS was deducted by the purchaser on behalf of the assessee, the entire sale consideration was taken for computation of Long Term Capital Gains in the hands of the assessee. In computing the above Long-Term Capital Gains, the assessee rejected the assessee's stand that he had paid to the other two co-owners a sum of Rs.3,10,00,000/-. The AO held assessee has not furnished documentary evidence to prove that assessee has paid a sum of Rs.3.10 crores to the other co-owners. Further, the Long-Term Capital Gains computation was varied by rejecting the cost of improvement claimed by the assessee and the construction cost of the residential building.

4. Aggrieved by the assessment completed u/s.153C of the Act vide order dated 25.09.2021, wherein the computation of Long-Term Capital Gains was varied, the assessee carried out the matter in appeal before the First Appellate Authority. Before the CIT(A), the assessee had raised 13 grounds which are extracted at para 3 of the impugned order of the CIT(A). The CIT(A) rejected all the grounds raised by the assessee, except Ground Nos.10 & 11. With reference to ground Nos.10 & 11, the CIT(A) gave specific directions to the AO to examine certain aspects of the issue and accordingly, partly-allowed the appeal of the assessee. The directions of the CIT(A) with reference to ground Nos.10 & 11 are as follows:-

“5.5.4 Grounds 10 to 11 are against the denial of amount of Rs.3.10 crore paid to Shri Vignesh Rajan and Mrs. G shanti as deduction in the computation of LTCG despite TDS u/s 194IA being done on the payment. The Appellant had claimed that he and his wife had purchased area of 5450 sq.ft of land from Mr. Vignesh Rajan and Mrs. G shanti for a consideration of Rs.3.10 crore and hence claimed deduction of Rs.3.10 crore in the computation of LTCG. He also claims that he has deducted TDS on this payment. Per contra, the AO notes that the appellant and his wife were only power of attorney holders vide Power of Attorney dated 04/05/2017 as per which it was clearly stated no consideration was paid for the powers granted. Hence the AO opined that the appellant has not purchased the property from Vignesh Rajan and Shanti. The AO observes that the appellant has received the entire consideration of 10 crores and no amount has been transferred to Mr. Vignesh Rajan or Mrs. G Shanti. Hence he held that the entire sale consideration is taxable in the hands of the appellant.

5.5.5 I have considered the issue. It is clear from the assessment order, that the appellant was owner of property measuring 10890 sq.ft and Mr. Vignesh Rajan and Mrs. G Shanti were the owners of 5450 sq.ft. Both of these properties were jointly assessed in the hands of the right person. In the instant case, Mr. Vignesh and Mrs. Shanti have sold 5450 sq.ft of land and hence they are liable for capital gains tax on the sale of their property. However, the appellant claims that he and his wife have purchased the property from Mr. Vignesh and Shanti vide POA dated 04/05/2017 for a consideration of Rs.3.10 crore. This POA was executed only a day prior to the execution of sale deed on 05/05/2017. In the recital it was recorded that no consideration was paid for the power granted. The bank account relied upon also did not show any payment to Mr. Vignesh and Mrs. Shanti. But as discussed in the order for AY 2016-17, the said property measuring 5450 sq.ft was purchased by Mr. Vignesh and Shanti through a bank auction for a sale consideration of Rs.2.79 crore. If the appellant and his wife have taken power of attorney from Mr. Vignesh and Mrs Shanti, they would have incurred some expense in the purchase of the same. Hence AO is directed to consider the amount paid to Mr. Vignesh and Mrs Shanti as purchase cost subject to their proving the source of payment to them. At the same time, the AO may also take steps to bring the profit on sale of land by Mr. Vignesh and Mrs Shanti to tax. Hence the grounds 10 and 11 are partly allowed.”

5. Aggrieved by the above directions of the CIT(A), the Revenue has filed the present appeal before the Tribunal. The Ld.DR strongly relied on the grounds raised.

6. The Ld.AR on the other hand submitted that the CIT(A) has passed an ex-parte order inspite of adjournment sought (refer para 4 of the CIT(A) order). The Ld.AR had placed on record, summary of bank statement of ICICI Bank of Silicon Valley Auto Components Pvt. Ltd. It stated that the assessee is the Director

of the above mentioned company. The Ld.AR by relying to the bank statement submitted that assessee had paid to other co-owners / vendors a sum of Rs.1,53,45,000/- each in the month of May, 2017 itself (sale deed dated 05.05.2017). Therefore, the Ld.AR submitted that assessee may be provided with one more opportunity to represent his case and prove the factum of payment of sum of Rs.3,10,00,000/- to the other co-owners namely Shri Vignesh Rajan and Smt. G. Shanthi.

7. We have heard rival submissions and perused the material on record. The limited issue for our consideration is whether the entire sale consideration received on sale of property of Rs.10,10,00,000/- is to be assessed in his hands or only a sum of Rs.7,00,00,000/-. According to the assessee, he has paid a sum of Rs.3,10,00,000/- out of the total consideration of Rs.10,10,00,000/- to the other co-owners of the property. The CIT(A) in the impugned order has given a specific direction to the AO to consider the same. The Ld.AR before us has placed on record the bank statement of a private limited company. It is stated that assessee is director in the said private limited company. On perusal of the bank statement of the said private limited company, we find that a sum of Rs.3,10,00,000/- was paid

to the other co-owners namely Shri Vignesh Rajan and Smt. G. Shanthi in May, 2017. To examine this limited aspect, the matter is remitted back to the AO. The AO is directed to consider the claim of the assessee that he is liable to pay Long-Term Capital Gains only on a sum of Rs.7,00,00,000/- instead of Rs.10,10,00,000/- assessed by AO. It is ordered accordingly.

8. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced in the open court on 22nd October, 2025 at Chennai.

Sd/-

(जगदीश)

(JAGADISH)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 22nd October, 2025

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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