

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

“C” BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.705/Mds/2015
निर्धारण वर्ष / Assessment Year : 1994-95

Mrs. Malathi Ramaratnam,
Power Agent to Mrs.Kamakshi Raman,
C/o Shri L. Mohun, Advocate,
1/8, Residency Apartments,
1, Trustpakkam South Street,
Mandaveli, Chennai – 600 028.

v. The Income Tax Officer,
International Taxation – 2(1),
Chennai - 600 034.

PAN : AHCPR 8920 P
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S. Sridhar, Advocate
for Shri L. Mohun, Advocate
प्रत्यर्थी की ओर से/Respondent by : Sh. P. Radhakrishnan, JCIT

सुनवाई की तारीख/Date of Hearing : 11.12.2015

घोषणा की तारीख/Date of Pronouncement : 05.02.2016

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) – 16, Chennai, dated 20.01.2015 and pertains to assessment year 1994-95. The only

issue arises for consideration is with regard to determination of fair market value as on 01.04.1981 for computation of capital gain.

2. Shri S. Sridhar, the Ld. counsel for the assessee, submitted that the Assessing Officer computed the fair market value as on 01.04.1981 on the basis of the guideline value of the Registration Department. According to the Ld. counsel, the guideline value of the Registration Department is only to assist the Sub-Registrar to determine the fair market value. Therefore, the guideline value would not reflect the market value of the property as on 01.04.1981.

3. On the contrary, Sh. P. Radhakrishnan, the Ld. Departmental Representative, submitted that this is second round of litigation before this Tribunal. In the first round, this Tribunal directed the Assessing Officer to adopt the guideline value as on 01.04.1981 after obtaining the same from Sub-Registrar. Accordingly the guidelines value from the office of Sub-Registrar was obtained and the Assessing Officer computed the capital gain accordingly.

4. We have considered the rival submissions on either side and perused the relevant material available on record. The assessee appears to have claimed the market value of the property as on

01.04.1981 at ₹2,50,000/- per ground. However, the Assessing Officer adopted the guideline value at ₹40,000/- per ground as against the guideline value of the property as on 01.04.1981 at ₹22,000/- per ground. When the matter came before this Tribunal, this Tribunal directed the Assessing Officer to obtain the fair market value as on 01.04.1981 from Sub-Registrar concerned and determine the same accordingly. Therefore, this direction of the Tribunal is to obtain fair market value of the property and not the guideline value. In spite of this direction, the Assessing Officer has taken the guideline value of the property at ₹22,000/- per ground. This Tribunal is of the considered opinion that market value of the property is not a constant figure. In other words, the market value of the property would depend upon various factors, namely, the area of the land, the location of the property, infrastructure facilities available around the land, potential future development around the location, etc. The guideline value of the property determined by the State Government is only to guide the Sub-Registrar to ascertain the right market value. Therefore, the guideline value is also one of the factors to be taken into consideration while determining the fair market value. It is a well settled principle of law that the market value of the property is nothing but a price that would be agreed

between the willing purchaser and willing seller. Therefore, the Assessing Officer has to assume a notional market to ascertain the fair market value after considering all those factors mentioned above. Unfortunately, the Assessing Officer has taken the guideline value of the property alone. Therefore, this Tribunal is unable to accept the orders of the lower authorities. Accordingly the orders of the lower authorities are set aside and the entire issue of computation of capital gain is remitted back to the file of the Assessing Officer. The Assessing Officer shall reconsider the claim of the assessee and find out the fair market value by considering all the factors mentioned above and thereafter determine the fair market value of the property as on 01.04.1981. The Assessing Officer shall thereafter compute the assessable capital gain after giving a reasonable opportunity to the assessee.

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

Order pronounced on 5th February, 2016 at Chennai.

sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 5th February, 2016.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-16, Chennai
4. आयकर आयुक्त/CIT (International Taxation), Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.