

आयकर अपीलीय अधिकरण, 'ए' न्याय पीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI
श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE-PRESIDENT
AND SHRI G.MANJUNATHA, ACCOUNTANT MEMBER

आयकरअपीलसं./I.T.A.No.2072/Chny/2018

(निर्धारणवर्ष / Assessment Year: 2012-13)

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| The Income Tax Officer, Non-Corporate Ward-19(3) Chennai. | Vs | Mr. G.Sampath, Old No.14 New No.1, Velachery Road, Alandur, Chennai-600 016. |
| | | PAN: DBGPS 0299F |
| (अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |

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| अपीलार्थीकीओरसे/ Appellant by | : | Mr. Suresh Periasamy, JCIT |
| प्रत्यर्थीकीओरसे/Respondent by | : | None |

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| सुनवाईकीतारीख/Date of hearing | : | 10.03.2021 |
| घोषणाकीतारीख /Date of Pronouncement | : | 28.04.2021 |

आदेश / ORDER

PER G.MANJUNATHA, AM:

This appeal filed by the Revenue is directed against order of the learned CIT(A)-14, Chennai dated 26.03.2018 and pertains to assessment year 2012-13.

2. The Revenue has raised the following grounds of appeal:-

"1. The order of the learned CIT(A) is contrary to law and facts and circumstances of the case.

2. The learned CIT(A) has erred In condoning the delay in filing appeal by the assessee of 134 days without passing a speaking order.

3. *The learned CIT(A) has erred to consider the fact that assessee himself had pleaded before the CIT(A) that the sale consideration of the impugned property as adopted by the DVO viz. ₹48.91 crores may be considered instead of value as per sec. 50C of the Act, as adopted by the Assessing Officer in the assessment order i.e. Rs.100.04 crores.*

4. *The learned CIT(A) has erred in adopting the Sale consideration of the property as ₹ 52.66 crores instead of ₹ 32 crores as mentioned in the sale deed dt. 7/10/2011 because of which he wrongly concluded that the valuation adopted by the DVO of ₹ 48.91 crores is less than the sale consideration and accordingly, directed to accept the returned income, whereas the DVO value of ₹48.91 crores is more than the sale consideration of ₹ 32 crores and accordingly should have directed to adopt the DVO value instead of income returned by "assessee".*

5. *For these and other grounds that may be adduced at the time of hearing, it is prayed that the order of the learned CIT(A) may be set aside and that of the Assessing Officer restored."*

3. Brief facts of the case are that a search operation u/s.132 of the Act was conducted in the case of Mr. N.Palanisamy and his group of companies . During the search proceedings, it was found that M/s. Pee Dee Lands Holdings Pvt.Ltd. has purchased a property at Door No.71, L.B. Road, Tiruvanmiyur, Chennai on 07.10.2011 measuring 4 acres and 11 cents from 64 sellers for a sale consideration of ₹ 32 cores. However, it

was noticed that guideline value as mentioned in the registered sale deed was at ₹ 100.04 crores. The assessee Shri G.Sampath was one of the sellers of the property and accordingly, assessment has been reopened u/s.147 of the Act. The case was taken up for scrutiny and during the course of assessment proceedings, it was noticed that sale consideration received for transfer of property is less than the value determined for payment of stamp duty and accordingly, the Assessing Officer has adopted 50C value and recomputed long term capital gain from sale of property at ₹ 2,62,02,032/-

4. Being aggrieved by the assessment order, the assessee preferred an appeal before the learned CIT(A). Before the learned CIT(A), the assessee has filed certain additional evidences and same has been forwarded to the Assessing Officer for his comments. The Assessing Officer vide his remand report dated 14.03.2018 submitted that although guideline value of property was fixed at ₹ 100.04 crores, but DVO vide his report dated 02.11.2017 has estimated the market value of the property as on the date of sale at ₹ 48.99crores, which is more than sale consideration mentioned

in registered sale deed. The learned CIT(A), after considering relevant submissions of the assessee and also taken note of report of DVO deleted the additions made by the Assessing Officer towards recomputation of long term capital gain by adopting 50C value on the ground that value determined by DVO is less than the sale consideration as per registered sale deed. Being aggrieved by the learned CIT(A) order, the Revenue is in appeal before us.

5. None appeared for the assessee. We have heard the learned DR and perused materials available on record . At the time of hearing, the learned DR submitted that the issue involved in the present appeal is covered by the decision of ITAT, Chennai Bench in the case of ITO Vs. Shri Neelamanikandan in ITA No .1988 /Chny/2018 vide order dated 31.10.2018, where under identical set of facts and in one of the case of sellers of the property, the issue has been set aside to the file of Assessing Officer with a direction to adopt value determined by DVO instead of value fixed for payment of stamp duty, as per provisions of section 50C of the Act. We find that the Tribunal in ITA No.1988/Chny/2018 in the case of ITO Vs. Shri Neelamanikandan(supra) has considered the

issue and observed that DVO has determined the market value of the property as on the date of sale at ₹ 48.99 crores, which is more than the sale consideration of ₹ 32 crores shown in the registered sale deed, but less than guideline value of property at ₹ 100.04 crores as considered by the Assessing Officer under the provisions of section 50C of the Act. Further, under those facts, the Tribunal has set aside the order passed by the learned CIT(A) and restored the issue back to the file of the Assessing Officer, with a direction to adopt DVO value of Rs.48.99 crores and to recompute capital gain in accordance with law. In this case, the facts are *pari materia* with the facts already considered by the Tribunal in ITA No.1988/Chny/2018. Therefore, by following the decision of the co-ordinate Bench of ITAT.,Chennai in the case of ITO Vs. Shri Neelamanikandan (supra), we set aside the order passed by the learned CIT(A) and restore the issue to the file of the Assessing Officer and direct him to recompute the long term capital gain by adopting the value determined by the DVO in terms of section 50C of the Act.

6. In the result, the appeal filed by the Revenue is treated as allowed for statistical purposes.

Order pronounced in the open court on 28th April, 2021

Sd/-
(महावीर सिंह)
(Mahavir Singh)
उपाध्यक्ष/ Vice-President

Sd/-
(जी. मंजुनाथ)
(G. Manjunatha)
लेखासदस्य / Accountant Member

चेन्नई/Chennai,
दिनांक/Dated 28th April, 2021
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

Appellant 2. Respondent 3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF.