

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C' BENCH: CHENNAI**

श्री मंजुनाथ. जी, लेखा सदस्य एवं श्री मनोमोहन दास, न्यायिक सदस्य के समक्ष  
**BEFORE SHRI MANJUNATHA. G, ACCOUNTANT MEMBER AND**  
**SHRI MANOMOHAN DAS, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.1179/Chny/2023  
निर्धारण वर्ष /Assessment Year: 2010-11

**Sengoda Gounder HUF,**  
6, Backside of Collector's  
Bungalow, Hasthampatti,  
Salem – 636 007.

**[PAN: AAYHS-3071-F]**

**(अपीलार्थी/Appellant)**

**The Dy. Commissioner of**  
**Income Tax,**  
Circle-1,  
Salem.

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by

: Shri T. Vasudevan, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 15.02.2024

घोषणा की तारीख /Date of Pronouncement

: 15.03.2024

**आदेश / ORDER**

**PER MANOMOHAN DAS, J.M:**

This appeal by the assessee is directed against the order of the learned Commissioner of Income-Tax, National Faceless Appeal Centre, (NFAC) Delhi [CIT(A) dated 29-09-2023] vide which he confirmed the penalty under section 271(1)(c) of the Act (hereinafter "the Act") levied by the Id. AO vide order dated 12-12-2019.

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2. The grounds of appeal of the assessee are as under:

*“1. The order of the Commissioner of Income Tax(Appeals) dismissing the appeal is contrary to law, erroneous and unsustainable on the facts of the case.*

*2. The CIT(A) erred in confirming the penalty levied under sec.271(1)(c) of Rs.5,16,640.*

*3. The CIT(A) was not justified in holding that the value of the property as on 01.4.1981 for computation of capital gains, estimated by the ITAT at Rs.150000 per acre as against the declared value by assessee of Rs.215000 per acre would amount to concealment of income by assessee.*

*4. The CIT(A) failed to appreciate that the assessee had computed the value of property as on 1.4.1981 based on a proximate sale instance in 1985 and that the ITAT had estimated the value, though the method of assessee was not rejected and hence confirming the penalty is wholly unjustified and untenable in law.*

*5. The CIT(A) was not justified in confirming the penalty without considering the submissions of assessee in its entirety and erroneously concluding that the assessee has not demonstrated as to why penalty should not be levied.*

*6. The CIT(A) ought to have considered the decisions of the Supreme Court and Madras High Court referred in the submissions and seen that the assessee cannot be imputed with concealment of income and there was no case for levy of penalty under sec.271(1)(c) of the Act.”*

3. The brief facts of the case are that an ancestral property belongs to Sri Sengoda Gounder was sold by his legal heirs Shri S. Rajamani, Shri S. Natarajan, S. Kannan and Smt. Jaya for a consideration of Rs.1,00,10,000/- on 01-03-2010 in favour of two different persons. As the sold property was a HUF property, the return of income for the AY 2010-11 was filed in the name of Shri Sengoda Gounder HUF by his legal heirs on 24-09-2013 admitting total income of Rs. 18,42,150/-.

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Since, the return of income was filed belatedly, hence, the same was lodged. The returned income of Rs. 18,42,150/- includes the capital gain of Rs. 17,45,290/-.

4. The assessee while computing the capital gain had adopted fair market value of the property as on 01-04-1981 at Rs. 13,06,125/- i.e., Rs.2,14,948/- per acre whereas the guideline value as per the Registration Department is 25,000/- per acre. The Registration Department vide letter dated 28-02-2013 made available under a reference from the Revenue and the assessment was reopened u/s.148 of the Act after prior approval of the Principal Commissioner of Income-Tax, Salem on 28-10-2016.

5. The Id. Assessing Officer [AO] on the basis of the guideline value received from the Registration Department, computed the long term capital gain and proposed to bring the amount computed by him to tax net. Accordingly, the Id. AO asked the assessee to file his reply thereon. In response, the assessee filed his objection to the proposal of the Id. AO. The assessee vide his objection tried to defend his computation of long term capital gain made by him. The Id. AO however, rejected the objection of the assessee and vide order dated 12-12-2019 made an addition of Rs. 60,57,962/- to the total income of the assessee.

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6. Being aggrieved, the assessee filed 1<sup>st</sup> appeal before the Id. CIT(A). The Id. CIT(A) vide order dated 31-01-2019 dismissed the appeal of the assessee.

7. Being aggrieved, the assessee filed appeal in ITA No.817/Chny/2019 before the Tribunal. The Hon'ble Tribunal after considering the case of the assessee vide order dated 10-05-2019 partly allowed the appeal of the assessee. The Hon'ble Tribunal estimated Rs. 1,50,000/- per acre as value of the property.

8. The Id. AO has complied with the order of the Hon'ble Tribunal dated 10-05-2019. However, he initiated penalty proceedings against the assessee by issuing a notice u/s 271(1)(c) of the Act and finally vide order dated 12-12-2019 levied a penalty of Rs.5,16,640/- upon the assessee.

6. Aggrieved, the assessee filed appeal before the Id. CIT(A). The Id. CIT(A) vide order dated 29-09-2023 dismissed the appeal of the assessee. The Id. CIT(A) observed that the assessee taken the rate of property on the basis of appreciation of gold rate and the Hon'ble ITAT granted part relief to the assessee.

7. Aggrieved, the assessee has filed the present appeal before the Tribunal.

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8. Heard the representatives of both the parties and perused the materials on record.

9. The Ld. AR reiterated the submissions made before the Id. CIT(A). The Ld. AR submitted that the assessee relied on the valuation report issued by a valuer approved by the Income Tax-Department. The Ld. AR further submitted that the Hon'ble Tribunal had estimated the fair market value of the property at Rs. 1,50,000/- per acre against the guideline value relied on by the Id. AO. On the other hand, the Ld. Sr. D.R supports the order of the Id. Lower authorities.

10. We have carefully considered the submissions of both the parties. We observe that the assessee's claim on the valuation of the property as well as the guideline value adopted by the Id. AO did not accept by the Hon'ble Tribunal. The Hon'ble Tribunal estimated the fair market value of the property at Rs.1,50,000/- per acre against the guideline value of Rs. 25,000/- as was provided by the Registration Department to the Revenue.

11. We observe that assessee's claim on the fair market value cannot be termed as concealment of income. Assessee's claim was based on the valuation report of an approved valuer. As the valuer is an approved valuer, his report is generally reliable. Therefore, we are

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of the view that the assessee did not conceal any income. The basis of the assessee's claim is the report of the approved valuer. Further, differences of opinion will always be there regarding the fixation of value of a particular property. Showing of different value of a particular property by different valuers is not uncommon. It is possible. Therefore, there were different opinions on the assessee's matter and for different opinions penalty cannot be levied on the assessee.

12. Further, the decision of the Hon'ble jurisdictional Madras High Court in the case of *Mrs. Thulasiammal vs. CIT (2000) 158 CTR 5 (Mad)*, which is relied on by the assessee held that, the guide line values of Registration Department has evidentiary value and they are intended to give information or instruction to the registering authorities but the guidelines would not establish the market value of the land.

13. The Hon'ble Madras High Court in the case of *CIT vs. Apsara Talkies 155 ITR 303 (Mad)* held that, a valuation estimate, without more, cannot justify a finding of concealment.

14. The Hon'ble Supreme Court in the case of *CIT vs. Reliance Petroproducts Pvt. Ltd. 322 ITR 158 (SC)* held that making an incorrect claim in law cannot tantamount to furnishing inaccurate particulars.

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15. We observe that the aforesaid decisions of the Hon'ble Madras High Court and Hon'ble Supreme Court fully covers the case of the assessee and accordingly, we direct to delete the penalty levied u/s. 271(1)(c) of the Act upon the assessee.

16. In the result, the appeal filed by the assessee is allowed.

*Order pronounced on 15<sup>th</sup> March, 2024.*

**Sd/-**  
**(मंजुनाथ. जी)**  
**(Manjunatha. G)**

**लेखा सदस्य /Accountant Member**

चेन्नई/Chennai, दिनांक/Dated 15<sup>th</sup> March, 2024.

EDN/-

**Sd/-**  
**(मनोमोहन दास)**  
**(Manomohan Das)**

**न्यायिक सदस्य/Judicial Member**

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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