आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM**

**श्री वी. दुर्गाराव, न्यायिक सदस्य एवं
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER**

W.T.A.Nos.03-05/Viz/2017
(निर्धारण वर्ष / Assessment Years: 2008-09, 2010-11, 2011-12)

T.S.Kalyana Chakravarthy Visakhapatnam **[PAN : ACIPT3530G]**	Vs.	Dy.Director of Wealth Tax IT & TP, Visakhapatnam
(**अपीलार्थी** /Appellant)		(**प्रत्यर्थी** / Respondent)

W.T.A.Nos.06-09/Viz/2017
(निर्धारण वर्ष / Assessment Years: 2008-09 to 2011-12)

T.S.Kanaka Rajesh Visakhapatnam **[PAN :ATAPT6495M]**	Vs.	Dy.Director of Wealth Tax IT & TP, Visakhapatnam
(**अपीलार्थी** /Appellant)		(**प्रत्यर्थी**/Respondent)

अपीलार्थी की ओर से / Appellant by	:	Shri G.V.N.Hari, AR
प्रत्यार्थी की ओर से / Respondent by	:	Shri P.S.Murthy, DR
सुनवाई की तारीख / Date of Hearing	:	22.02.2018
घोषणा की तारीख / Date of Pronouncement	:	23.02.2018

आदेश /O R D E R

PER D.S. SUNDER SINGH, Accountant Member:

These appeals are filed by the assessee against the orders of the Commissioner of Wealth Tax (Appeals)-10, [CWT(A)] Hyderabad vide ITA No.0487/CIT(A)-10/2015-16 and ITA No.0490/CIT(A)-10/2015-16 dated 14.09.2016. All the grounds of appeal are related to the non exclusion of debt incurred for purchase of the vacant land. Since the facts are identical and the issue involved is common in these appeals, they are clubbed, heard together, disposed of by this common order for the sake of convenience and the relevant facts are extracted from WTA 03/Viz/2017 for the A.Y.2008-09.

2. In this case, the assessee filed return of wealth in response to the notice issued u/s 17(1) of W.T.Act on 19.02.2013. During the assessment proceedings, the Assessing Officer(AO) found that the assessee has purchased the vacant land of 4.5 acres at Survey No.336/P, Rushikonda Layout, Madhurawada, Visakhapatnam from VUDA on 17.03.2008 along with two others. The asset constitutes 21,780 sq.yds of vacant site valued @Rs.6,000/- per sq.yd as per Sub Registrar's value as on 31.03.2008 and

the assessee's 1/3 share works out to Rs.4,35,60,000/. The assessee claimed the deduction of the borrowings made for purchase of the land and admitted the net wealth of Rs.(-)1,58,40,000/-. The assessee has taken the loans from Smt.Sireesha Toleti, wife of the assessee and from Dr.C.S.Padmavathi, mother, a sum of Rs.5,09,00,000/- and Rs.85,00,000/- respectively. Smt. Sireesha has given a confirmation letter stating that she has given a loan by pay order on 27.11.2007 from IndusInd Bank, Visakhapatnam. The loans were taken in Indian rupees in India through the bank cheques/pay orders. The AO has allowed the deduction of Rs.85,00,000/- in respect of loan taken from his mother Dr.C.S.Padmavathi and rejected the assessee's claim for deduction of loan taken from his wife Smt.Sireesha Toleti for a sum of Rs.5,09,00,000/-.

3. Similarly in the case of Sri Toleti Srinivasa Kanaka Rajesh vide WTA No.06-09/Viz/2017 for the assessment years 2008-09 to 2011-12, the assessee filed the return of net wealth after deducting the loans taken from his wife Smt.Aparna Toleti and mother, Dr.C.S.Padmavathi for the similar amounts.

4. The AO rejected the assessee's claim for reducing the loans from the value of the assets in both the cases of the assesses, for the reason that both the assessee and the wife are residing outside India. The AO placed heavy reliance on Circular No. 392[F.No.321/78/75-WT], dated 24.08.1984 and observed that the confirmation letters given by the creditors do not indicate the place of repayment and the debtor is not a resident of India, the impugned debt deemed to be outside India, and hence cannot be considered for computation of net wealth of the assessee. Accordingly redetermined the net wealth at Rs.3,49,73,040/-.

5. Aggrieved by the order of the AO, the assessee went on appeal before the CWT(A) and the Ld.CWT(A) enhanced the taxable net wealth by a sum of Rs.2,00,29,711/- incurred for stamp duty, registration charges paid for the purchase of the asset. Not being satisfied with the order of the Ld.CWT(A), the assessee is in appeal before this Tribunal.

6. During the appeal hearing, the Ld.AR argued that the assessee has correctly computed the net wealth and claimed the deduction of loans taken for purchase of the asset, hence argued that the loans taken for purchase of the asset required to be allowed as deduction from the value

of the asset as per section 2(m) of Wealth Tax Act. The Circular is with regard to the location and valuation of assets under the Act but not with regard to the debts incurred for purchase of the assets. Therefore, the Ld.AR argued that the Circular No.392[F.No.321/78/75-WT] has no application in the assessee's case since the debt is taken from his wife in India in Indian Rupees which should be repaid in India and accordingly argued that the debt incurred for purchase of the asset should be excluded from the net wealth of the assessee. The Ld.AR further submitted that in the subsequent year for the assessment year 2013-14, the same case has come up for scrutiny and all the facts were placed before the AO who has accepted and allowed deduction. Therefore, the Ld.AR requested to set aside the orders of the lower authorities and delete the addition.

7. On the other hand, Ld.DR supported the orders of the lower authorities and argued that since nothing is mentioned in the confirmation letter it is to be deemed that the loan is repayable outside India, hence, cannot be considered for computation of net wealth.

8. We have heard both the parties and perused the material placed on record. The assessee is owner of 1/3 share of land of 4.5 acres located at

Survey No.336/P, Rushikonda Layout, Madhurawada, Visakhapatnam. The assessee's share of the value of the asset was Rs.4,35,60,000/-. There is no dispute with regard to the fact that the assessee had taken loans from Smt.Sireesh Toleti, wife of the assessee and from his mother Dr.C.S.Padmavathi and the same were used for the purpose of purchasing the land. The loans were taken in Indian Rupees in Visakhapatnam. As per the provisions of Wealth Tax Act section 2(m), the net wealth required to be computed after reducing the debts owned by the assessee. For ready reference, we extract section 2(m) of Wealth Tax Act which reads as under:

> *"(m) "net wealth" means the amount by which the aggregate value computed in accordance with the provisions of this Act of all the assets, wherever located, belonging to the assessee on the valuation date, including assets required to be included in his net wealth as on that date under this Act, is in excess of the aggregate value of all the debts owed by the assessee 37 [on the valuation date which have been incurred in relation to the said assets];"*

8.1. In this case, there is no dispute that the loans were taken from Smt. Sireesha in Indian Rupees for purchase of the asset. As per the provisions of Wealth tax Act, the debts incurred for the purpose of acquiring the asset should be reduced from the value of the asset. There is no provision in the Act to not to consider the loans incurred for the purpose of acquiring the asset in case of non residents. The circulars cannot override the Act. Since the assessee incurred the debt for purchasing the asset, we are of the considered opinion that the assessee is entitled for deduction of the loan amount from the value of the asset.

8.2. Though the confirmation letter does not specifically mention the place of repayment since the loan was taken in Indian Rupees, the same required to be paid in India in Indian Rupees. The circular relied upon by the AO is with regard to valuation of assets but not related to the liabilities. Further merely on the basis of confirmation letter the AO landed in conclusion without conducting the enquiry that the debt is repayable outside India. The Ld AR submitted that the loan is repayable in India in Indian rupees. This fact was substantiated by the assessee in the subsequent year before the AO, who has accepted the claim of the assessee and allowed the deduction, in the assessment made u/s 16(3) for the assessment year 2013-14. Therefore, we hold that the debt incurred for the purpose of acquiring the asset for the impugned assessment years is allowable and accordingly set aside the orders of the lower authorities and allow the appeals of the assessees.

9. In the result, the appeals filed by the assesses are allowed.

The above order was pronounced in the open court on 23rd Feb 2018.

Sd/-	Sd/-
(वी.दुर्गाराव)	**(डि.एस. सुन्दरसिंह)**
(V. DURGA RAO)	**(D.S. SUNDER SINGH)**
न्यायिक सदस्य/JUDICIALMEMBER	**लेखा सदस्य/ACCOUNTANT MEMBER**

विशाखापटणम /Visakhapatnam
दिनांक /Dated : 23.02.2018

L.Rama, SPS

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. अपीलार्थी / The Appellants- Sri T.S.Kalyana Chakravarthy and Shri T.S.Kanaka Rajesh, C/o Smt.C.S.Padmavati, D.No.10-27-14/A, Kailashmetta, Siripuram, Visakhapatnam
2. The Deputy Director of Wealth Tax (IT & TP), Visakhapatnam
3. The Commissioner of Wealth Tax (IT&TP), Hyderabad
4. The Commissioner of Wealth Tax (Appeals)-10, Hyderabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , विशाखापटणम / DR, ITAT, Visakhapatnam
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

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Sr. Private Secretary
ITAT, VISAKHAPATNAM