

आयकर अपीलीय अधिकरण पुणे न्यायपीठ "SMC" पुणे में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
SMC BENCH, PUNE

श्री डी. करुणाकरा राव, लेखा सदस्य के समक्ष  
BEFORE SHRI D. KARUNAKARA RAO, AM

आयकर अपील सं. / ITA No.417/PUN/2017  
निर्धारण वर्ष / Assessment Year : 2008-09

Balkrishna Mahipati Rane,  
1321, A-Ward, Chandreshwar,  
Lane Shivaji Peth, Kolhapur  
PAN : AANPR5572K

.... अपीलार्थी/Appellant

Vs.

ITO, Ward-1(3),Kolhapur

.... प्रत्यर्थी / Respondent

आयकर अपील सं. / ITA No.418/PUN/2017  
निर्धारण वर्ष / Assessment Year : 2008-09

Ms.Meena Sopan Rane,  
2608/13/A, B-Ward,  
Subhash Road, Kolhapur  
PAN : AAPPR9153C

.... अपीलार्थी/Appellant

Vs.

ITO, Ward-1(4),Kolhapur

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri Nikhil Pathak  
Shri Mayuresh Doshi  
प्रत्यर्थी की ओर से / Respondent by : Dr. Vivek Aggarwal

सुनवाई की तारीख / <b>Date of Hearing : 12.06.2018</b>	घोषणा की तारीख / <b>Date of Pronouncement: 15.06.2018</b>
--	--

**आदेश / ORDER**

**PER D. KARUNAKARA RAO, AM :**

There are two appeals filed by two different assesseees for the common Assessment Year 2008-09. They are filed against the separate orders of CIT(A)-2, Kolhapur commonly dated 06-12-2016.

2. Briefly stated relevant facts include that both the assesseees jointly own a property admeasuring 690.6 sq.mtrs alongwith other two

co-owners. All the 4 plus co-owners inherited the said ancestral property and the 4 of them has 1/4<sup>th</sup> share each. Details are given below :

1. *Mr. Balkrishna Mahipatrao Rane – ¼ share*
2. *Mr. Meena Sopan Rane + two daughters – ¼ share*
3. *Mr. Shirish Rane – ¼ share*
4. *Mr. Harish Rane – ¼ share*

During the year, the assessee - Shri Balkrishna M. Rane along with Smt. Meena Rane along with her two daughters (Ms.Shweta and Ms.Vaibhavi ) sold the said property for a sum of Rs.45 lakhs. During the assessment proceedings, AO noticed that the market value of the said property works out to Rs.1,00,87,000/-. The same is much higher than Rs.45 lakhs. Therefore, AO proceeded to invoke the provisions of section 50C of the Act and made the additions in the assessments of both the cases under consideration. While the AO made addition of Rs.31,31,280/- in the case of Shri Balkrishna M. Rane on account of long term capital gain as per the discussion given in Para Nos.12 and 13 of the assessment order and Rs.34,26,257/- was added in the case of Smt. Meena Sopan Rane. CIT(A) confirmed the additions vide his order dated 06-12-2016.

3. Aggrieved with the order of CIT(A), both the assesseees are in appeal before the Tribunal with similar grounds. The grounds raised by these assesseees are therefore reproduced here as under :

*“1. On the facts and in the circumstances of the case and in law the Ld.CIT(A) is not justified in sustaining addition by refusing to consider the actual area of land and consequently valuation as determined by the registered valuer.*

*2. On the facts and in the circumstances of the case and in law the Ld.CIT(A) ought to have referred the matter to departmental valuation officer for ascertaining area and value of property.*

3. *On the facts and in the circumstances of the case and in law the Ld.CIT(A) failed to appreciate that the appellant has approached to the concerned office for getting the basis of valuation made but unfortunately could not get the same within time.*

4. *The appellant craves, to consider each of the above grounds of appeal without prejudice to each other and craves leave to add, alter, delete or modify all or any of the above grounds of appeal.”*

4. Before me at the outset, Ld. Counsel for the assessee submitted that there was a mistake with reference to the figure of market value of said land/building and submitted that the sum Rs.1,00,87,000/- constitutes a mistake. In this regard, bringing my attention to the relevant correction deed dated 11-05-2018, Ld. Counsel for the assessee submitted that the correct figure should have been Rs.44,35,380/- and not Rs.1,00,87,000/-. Considering the fact that this constitutes the additional evidence, Ld. Counsel prayed for admitting the same and remanding the issue to the file of AO for fresh adjudication. He demonstrated that the said correction deed is made after the CIT(A) passed the order.

5. After hearing both the parties on this limited issue of admission of additional evidence as well as remanding the issue to the file of AO, I find the correction deed being dated 11-05-2018 is subsequent to the passing of assessment order/appellate order. Therefore, the said document/additional evidence certainly does not exist at the relevant point of time when the assessment/appellate orders were finalised. Thus, the assessee has a reasonable cause for not submitting the said document before the concerned authorities. Therefore, I order for admitting the same in the interest of administration of justice.

Therefore, I direct the AO to admit the same and adjudicate the issue afresh after considering the correct figure and the contents

mentioned in the said correction deed. Since the property in question is a joint property relatable to both the assesseees, the grounds raised by both the assesseees are allowed for statistical purposes.

6. In the result, both the appeals of the assesseees are allowed for statistical purposes.

Order pronounced on this 15<sup>th</sup> day of June, 2018.

**Sd/-**  
**(D.KARUNAKARA RAO)**  
**लेखा सदस्य / ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक Dated : 15<sup>th</sup> June, 2018.  
*Satish*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A)-2, Kolhapur
4. आयकर आयुक्त / The Pr.CIT-2, Kolhapur
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे “SMC” / DR ‘SMC’, ITAT, Pune;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune