

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "SMC", PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. / ITA No.1964/PUN/2018  
निर्धारण वर्ष / Assessment Year : 2010-11

Sangeeta Hanumat Nazirkar, H26, Swapnshilp, Kothrud, Pune – 411 038 PAN :AAKFK3719Q	Vs.	ITO, Ward -3, Satara
(Appellant)		(Respondent)

Appellant by	Shri Deepak S. Sasar
Respondent by	Shri Rajesh Gawli

Date of hearing	20-02-2019
Date of pronouncement	21-02-2019

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee arises out of the order passed by the CIT(A)-4, Pune on 17-09-2018 in relation to the assessment year 2010-11.

2. The first ground about passing of assessment order in the hands of a wrong person was not pressed by the ld. AR. The same is, therefore, dismissed.

3. The second ground is against the denial of deduction u/s.80IB(10) of the Income-tax Act, 1961 (hereinafter also called 'the Act').

4. Briefly stated, the facts of the case are that the assessee claimed deduction u/s.80IB(10) of the Act. The AO observed that one of the conditions required for making such a claim, namely, that the project should be on the size of the plot of land which has minimum area of one acre, was not fulfilled. He observed that the project was completed on a plot of 3742.20 sq. mtrs., which was less than one acre. He, therefore, denied the deduction. The ld. CIT(A) did not allow any relief on this score, against which the assessee has come up in appeal before the Tribunal.

5. I have heard both the sides and gone through the relevant material on record. The ld. AR contended that the authorities below erred in considering the area of plot at less than one acre. In support of his submission, he relied on Sanctioned plan and Commencement letter, copies of which have been placed at page 21 etc. of the paper book. The ld. AR contended that as per this Plan, the total area is more than the stipulated one, which aspect has not been properly considered. In view of the fact that there is some difference in the area set out in the assessment order and given in the Sanctioned plan, I am of the considered opinion that the ends of justice would

meet adequately if the impugned order is set aside and the matter is restored to the file of AO. I order accordingly and direct him to decide the issue afresh in the light of the Sanctioned plan and other relevant documents. Needless to say, the assessee will be allowed a reasonable opportunity of hearing by the AO in the fresh proceedings.

6. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the Open Court on 21<sup>st</sup> February, 2019.

Sd/-

(R.S.SYAL)

उपाध्यक्ष/ VICE PRESIDENT

पुणे Pune; दिनांक Dated : 21<sup>st</sup> February, 2019  
सतीश

**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 (Appeals)-3, Pune
4. The Pr. CIT-2, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "SMC" /  
DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

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

		Date	
1.	Draft dictated on	20-02-2019	Sr.PS
2.	Draft placed before author	20-02-2019	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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