



**आयकर अपीलीय अधिकरण "एफ" न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"F" BENCH, MUMBAI**

श्री शक्तिजीत दे, न्यायिक सदस्य एवं  
 श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।  
**BEFORE SHRI SAKTIJIT DEY, JM AND**  
**SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ I.T.A. No.2973/Mum/2018  
 (निर्धारण वर्ष / Assessment Year: 2014-15)

<b>ITO-(IT)-2(2)(1)</b> 17 <sup>th</sup> Floor, Room No.1725 Air India Building, Nariman Point Mumbai – 400 021	<b>बनाम/</b> <b>Vs.</b>	<b>Smt. Vibha Hutchins</b> C/o J.S.Bhatia & Co. – CA 14/15, Ashok Center, 2 <sup>nd</sup> Floor Lokmanya Tilak Marg Next to GT Hospital, Mumbai- 400001
स्थायी लेखा सं./ जी आइ आर सं./ PAN/GIR No. <b>AFDPH-7682-D</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )
<b>Assessee by</b>	:	Shri Jitendra Singh – Ld. AR
<b>Department by</b>	:	Chaudhary Arun Kumar Singh-Ld.DR
सुनवाई की तारीख/ <b>Date of Hearing</b>	:	15/05/2019
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	20/05/2019

**आदेश / O R D E R**

**Per Manoj Kumar Aggarwal (Accountant Member):-**

1. Aforesaid appeal by revenue for Assessment Year [in short referred to as 'AY'] 2014-15 contest the order of Ld. Commissioner of Income-Tax (Appeals)-56, Mumbai, [in short referred to as 'CIT(A)'], *Appeal No. CIT(A)-56/ITO(IT)-2(2)(1)/2016-16/254-H* dated 20/02/2018 on following grounds of appeal: -



1. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by AO by relying on the judgement of Bombay High Court in the case of Manjula Shah Vs. DCIT reported in 355 ITR 474 (Bom) (2013) when the SLP filed in the said case is pending before SC.
2. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in directing the AO that indexed cost of acquisition should be taken from the year in which previous owner acquired the asset i.e. 01.04.1981 and not from the year in which assessee became owner of the asset for purpose of computation of LTCG.
3. The appellant prays that the order of the Ld. CIT(A) on the above grounds be set aside and that of the assessing officer be restored

2. As evident from grounds of appeal, the issue before us stand in a very narrow compass. The assessee being *resident individual* sold certain immovable property during the impugned AY. The undisputed position is that the assessee inherited the said property from her parents and the property was purchased by the parents of the assessee before 01/04/1981. Hence, the benefit of indexation was claimed by the assessee from FY 1981-82 instead of *cost inflation index* of the year in which ownership was transferred in the name of the assessee. Although the assessee relied on the judgement of Hon'ble Bombay High Court rendered in **Manjula Shah Vs. DCIT**, however, noticing that the *Special leave Petition* filed by the department against the same was pending before Hon'ble Supreme Court, the benefit as claimed by the assessee was denied by Ld. AO. The Ld. first appellate authority reversed the stand of Ld. AO by observing that the said judicial pronouncement was binding. Aggrieved, the revenue is in further appeal before us.

3. It has been brought to the notice that even the department's *Special Leave Petition* against the said binding judgement has been dismissed by Hon'ble Apex Court on 18/09/2018 [*SLP No. 19924/2012*]. Accordingly, no infirmity could be found in the impugned order.



4. Resultantly, the appeal stands dismissed.

*Order pronounced in the open court on 20/05/2019.*

**Sd/-**  
**(Saktijit Dey)**  
न्यायिक सदस्य / **Judicial Member**

**Sd/-**  
**(Manoj Kumar Aggarwal)**  
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 20/05/2019  
Sr.PS:-Jaisy Varghese

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त/ CIT– concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai