

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. / ITA No. 1102/PUN/2019

निर्धारण वर्ष / Assessment Year : 2014-15

M/s. Nanda Tours & Travels, Vs. ITO, Ward-7(3),
Prop. Shri Vinod Mohan Sakore, Pune
S.No.47, Ganesh Nagar,
Near Venus Apartment,
Vadgaonsheri, Pune – 411 014
PAN : BHPPS2274B

(Appellant)

(Respondent)

Appellant by None
Respondent by Shri V.K. Singh

Date of hearing 02-01-2020
Date of pronouncement 03-01-2020

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee arises out of the order passed by the CIT(A)-8, Pune on 08-05-2019 in relation to the assessment year 2014-15.

2. The only issue raised in this appeal is against the confirmation of addition on account of short term capital gain and long term capital gain.

3. Shorn off unnecessary details, it is seen that the Assessing Officer (AO) made the additions on account of long term and short term capital gain on the basis of stamp value. The assessee contended before the Id. CIT(A) that the AO ought to have referred the matter to the Departmental Valuation Officer (DVO) for substitution of the stamp value with the value to be worked out by the Departmental Valuer. The Id. CIT(A) did not find such a request having been made by the assessee before the AO. He, therefore, confirmed the addition.

4. I have heard the Id. DR and gone through the relevant material on record. There is no appearance from the side of the assessee despite several notices. As such, I am proceeding to dispose of the appeal *qua* the assessee. It is seen as a matter of fact that the assessee made a request at least to the Id. CIT(A) that the stamp value is excessive and the AO ought to have made a reference to the DVO for substitution of full value of consideration in place of stamp value u/s.50C. Though the claim of the assessee was that such a request was also made before the AO but the Id. CIT(A) could not find it out from the record and hence confirmed the addition.

5. The Hon'ble Calcutta High Court in the case of *Sunil Kumar Agarwal Vs. CIT (2014) 47 taxmann.com 158 (Cal.)* has held in para 8 that: "Even in a case where no such prayer is made by the learned advocate representing the assessee, who may not have been properly instructed in law, the assessing officer, discharging a quasi judicial function, has the bounden duty to act fairly and to give a fair treatment by giving him an option to follow the course provided by law". Taking into consideration the entire facts and circumstances prevailing in the instant case, 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 make a reference to the DVO in terms of section 50C of the Act.

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

Order pronounced in the Open Court on 03rd January, 2020.

Sd/-
(R.S.SYAL)
उपाध्यक्ष/ VICE PRESIDENT

पुणे Pune; दिनांक Dated : 03rd January, 2020
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)-8, Pune
4. The Pr. CIT-4, 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	02-01-2020	Sr.PS
2.	Draft placed before author	02-01-2020	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.		

*