

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "C", MUMBAI**

**BEFORE SHRI S. RIFAUH RAHMAN, ACCOUNTANT MEMBER AND  
SHRI RAM LAL NEGI, JUDICIAL MEMBER**

**ITA NO. 4254/MUM/2018**

:

**A.Y : 2011-12**

Mr. Purshotamdas Goenka  
15, Shirin Chambers, 348/50,  
Samuel Street, Vadgadi,  
Mumbai 400 003.  
**PAN : ATWPG3750C** (Appellant)

Vs. DCIT, Circle – 13(2),  
Mumbai. (Respondent)

**Assessee by : Shri Shekhar Gupta  
Revenue by : Shri Kumar Padmapani Bora**

**Date of Hearing : 16/09/2019**

**Date of Pronouncement : 20/09/2019**

**ORDER**

**PER S. RIFAUH RAHMAN, A.M**

The captioned appeal preferred by the assessee is directed against the order passed by the CIT(A)-28, Mumbai dated 02.04.2018, which in turn, arises out of an order passed by the Assessing Officer under Section 143(3) of the Income Tax Act, 1961 (in short 'the Act') dated 01.03.2014 for assessment year 2011-12.

2. The sole grievance of the assessee is that the Assessing Officer has assessed the income derived from sale of flats under the head "business income" instead of "capital gains". At the outset, the learned representative

for the assessee submitted that the facts and circumstances of the instant appeal is identical to the appeal in the case of Mrs. Chanderkala Goenka being ITA No. 2411/Mum/2018 which has been decided by our co-ordinate bench vide its order dated 29.07.2019 and, therefore, the appeal of the assessee be also disposed of accordingly.

3. The learned DR appearing for the Revenue did not controvert the submission of the learned representative for the assessee but relied on the orders of the authorities below.

4. We have considered the rival submissions and perused the material on record. We notice that the facts and circumstances as well as the issue in dispute is identical to the dispute decided by our co-ordinate bench in the case of Mrs. Chanderkala Goenka (supra), therefore, respectfully following the decision in the aboveresferred case of Mrs. Chanderkala Goenka (supra), the appeal of the assessee is allowed.

5. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 20<sup>th</sup> September, 2019.

Sd/-  
**(RAM LAL NEGI)**  
**JUDICIAL MEMBER**

Sd/-  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Mumbai, Date : 20<sup>th</sup> September, 2019

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## Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "C" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar  
I.T.A.T, Mumbai