

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

BEFORE SHRI S.S.GODARA, JM
AND SHRI DR. DIPAK P. RIPOTE, AM

आयकर अपील सं. / ITA No.2280/PUN/2017
निर्धारण वर्ष / Assessment Year : 2011-12

Late Bhushan Ramchandra Zinjurde,
L/H Reshma Bhushan Zinjurde,
B1/C,Flat No.110,
Sonigarakesar,Wakad,
Pune – 411 057

PAN : AALPZ8225D

.....अपीलार्थी / Appellant

बनाम / V/s.

DCIT, Cir-4, Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Pramod S. Shingte
Revenue by : Shri S. P. Walimbe

सुनवाई की तारीख / Date of Hearing : 12.05.2022
घोषणा की तारीख / Date of Pronouncement : 08.06.2022

आदेश / ORDER

PER S. S. GODARA, JM :

1. This assessee's appeal for A.Y. 2011-12 is directed against the CIT(A)-3, Pune's order dated 21/09/2015 passed in case No.PN/CIT(A)-3/DCIT Cir-4/128/2014-15 involving proceeding u/s. 143(3) of the Income Tax Act, 1961 ; in short "the Act.

Heard both the parties. Case file perused.

2. The first and foremost issue between the parties herein is regarding addition of Rs.1.9 crore out of total consideration of Rs. 5.5 crores. It is an admitted fact that assessee had indeed declared the first installment of Rs.3.6 Crores representing the actually received amount going by the agreement corresponding dated 19.03.2011 executed with M/s. Sonigara Promoters. Learned lower authorities have added the impugned balance component as well thereby rejecting assessee's plea of a dispute having being arisen between the parties.

3. We notice in this factual background that the assessee had filed its detailed paperbook and more particularly a recent cancellation deed dated 01.04.2022 duly registered before the prescribed authority that the impugned balance consideration has been decided to have been reduced from the forgoing sum of Rs.5.5 crores. Faced with this situation and keeping in mind the fact that this is in the nature of additional evidence only, we deem it appropriate to restore the instant former issue back to the assessing authority for its afresh adjudication after necessary factual verification in consequential proceedings. Ordered accordingly.

4. Next comes assessee's latter issue of cost of acquisition as on 01.4.1981 involving rival valuation reports from the registered valuer as well as the DVO; as the case may be. Suffice to say, the assessee had considered the impugned cost of 13.50 lacs whereas the Assessing Officer has adopted the same at Rs.63,000/- only. The Revenue could hardly dispute the corresponding clinching statutory expression "is at variance with its fair market value" has come from 1.7.2012 vide Finance Act 2012 thereby

substituting “is less than its fair market value”. The same admittedly carries prospective effect whereas we are in assessment year 2011-12. We thus quote CIT Vs Puja Prints 2014 360 ITR 697(Bom.) that the impugned statutory provision could not be applied with retrospective effect for the purpose of ascertaining such a cost acquisition claimed as more than the fair market value. We accordingly accept the assessee’s latter substantive ground in very terms.

No other ground has been pressed before us.

5. This assessee’s appeal is partly allowed in above terms.

Order pronounced in the Open Court on this 8th day of June, 2022.

Sd/-

Sd/-

(DR.DIPAK P.RIPOTE)

(S.S. GODARA)

लेखा सदस्य/ **ACCOUNTANT MEMBER**

न्यायिक सदस्य/**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 8th June, 2022.

Ashwini

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-3, Pune.
4. The Pr.CIT-2, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “ए” बेंच,
पुणे / DR, ITAT, “A” Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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

S.No.	Details	Date	Initials
1	Draft dictated on	12.05.2022	
2	Draft placed before author	07.06.2022	
3	Draft proposed & placed before the Second Member		
4	Draft discussed/approved by Second Member		
5	Approved Draft comes to the Sr. PS/PS		
6	Kept for pronouncement on		
7	Date of uploading of Order		
8	File sent to Bench Clerk		
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R.		
11	Date of Dispatch of order		