

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

BEFORE SHRI S. S. GODARA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.659/PUN/2021
निर्धारण वर्ष / Assessment Year: 2009-10

Mohd. Salim Abdul Sattar, At Post Nagewadi, Tq. & Dist. Jalna- 431213. PAN : BNJPM2608B	Vs.	ITO, Ward-2, Jalna.
Appellant		Respondent

आयकर अपील सं. / ITA No.660/PUN/2021
निर्धारण वर्ष / Assessment Year: 2009-10

Abdul Sattar Abdul Kadar Bawla,, H. No.3538, Bawla Bazar, Old Jalna-431213. PAN : ANNPB7580J	Vs.	ITO, Ward-2, Jalna.
Appellant		Respondent

Assessee by : Shri K. Shrinivasan
Revenue by : Shri M. G. Jasnani
Date of hearing : 25.07.2022
Date of pronouncement : 25.07.2022

आदेश / ORDER

PER S. S. GODARA, JM:

These twin assessee's instant as many appeals; for assessment year 2009-10, arise against the CIT(A)-2, Aurangabad's separate orders dated 14.01.2019 passed in case no.ABD/CIT(A)-2/118/2016-17 and ABD/CIT(A)-2/74/2016-17, in proceedings u/s

143(3) r.w.s. 147 and u/s 144 of the Income Tax Act, 1961; in short “the Act”, respectively.

Heard the assesseees as well as the department. Case files perused.

2. Delay of 59 days each in filing of both these appeals is condoned since falling in Covid-19 pandemic outbreak period.

3. It is straightway noticed at the outset that these twin assesseees’ identical sole substantive grievance challenges correctness of both the lower authorities’ action granting part exemption relief of section 10(37) claim. Both the parties invited my attention to the Assessing Officer’s detailed discussion in these twin assessments dated 19.03.2016 that he had found a portion of lands acquired to be “barren” not eligible for the impugned exemption.

4. Learned counsel reiterated the assesseees’ stand adopted throughout the entire chunk(s) of the land acquired was agricultural only. He invited my attention to the detailed paper books forming part of the case records as well as the final award settlement under the provision of land acquisition law that the competent authority had indeed treated the lands in issue as agricultural and not barren at all. This clinching fact has gone un-rebutted from the Revenue’s side. The fact also remains that the learned lower authorities have

nowhere considered the same in their respective orders. Face with this situation, I hereby direct the learned Assessing Officer to re-adjudicate the instant issue afresh in the light of the corresponding land acquisition proceedings details within three effective opportunity of hearing. It is made clear that these assesseees shall be very much at liberty to raise all legal as well as factual issues in consequential proceedings. Ordered accordingly.

5. These twin assesseees' appeal instant as many appeals are allowed for statistical purposes in above terms. A copy of this common order be placed in the respective case files.

Order pronounced on this 25th day of July, 2022.

Sd/-
(S. S. GODARA)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 25th July, 2022.

Sujeet (DOC)

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

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

आदेशानुसार / BY ORDER,

// True Copy //

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