

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.438/PUN/2020
निर्धारण वर्ष / Assessment Year : 2013-14

Kelkar Brothers Sales Pvt.Ltd.,
711, Narayan Peth,
Laxmi Road,
Pune – 411 030

PAN : AAACK8688B

.....अपीलार्थी / Appellant

बनाम / V/s.

ITO, Wd 14(2), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri C.V.Deshpande
Revenue by : Shri Arvind Desai

सुनवाई की तारीख / Date of Hearing : 21.06.2022
घोषणा की तारीख / Date of Pronouncement : 29.08.2022

आदेश / ORDER

PER S. S. GODARA, JM :

1. This assessee's appeal for A.Y. 2013-14 is directed against the CIT(A)-7, Pune's order dated 01/07/2019 passed in case No. PN/CIT(A)-7/Wd-14/10301/2018-19 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 assessee raises the following twin substantive ground in the instant appeal.

“1. On facts and in the circumstances of the case and in law the learned assessing officer erred in granting indexation for working out long term capital gains on sale of immovable property from the FY 2005-06 instead of FY 2002-03.

2. On facts and in the circumstances of the case and in law the learned assessing officer erred in not recognizing the legal ownership of the assessee company of the immovable property sold in the instant year from FY 2002-03 on the basis of agreement to sale thereby depriving the assessee the benefit of indexation from FY 2002-03 and working out incorrect capital gains amounting to Rs.553929/-”

3. A perusal of the case records and more particularly the CIT(A) order in para 5.1 page 4 suggests that he has not even entertained the assessee's lower appeal on account of the fact that the Assessing Officer has declined its cost of acquisition as per the PCIT -6, Pune's section 263 revision directions dated 09.03.2018. It is in this clinching backdrop of facts that we see no merit in the lower appellate discussion as it has not adjudicated the taxpayer's corresponding substantive grounds on merits in light of section 250(6) of the Act requiring of framing of points of determination followed by a detailed discussion thereupon. It is further made clear that any assessment framed even consequence to section 263 revision directions always forms subject matter of appellate remedy provide under the statute. Faced with the

situation, we restore the assessee's instant substantive ground(s) back to the CIT(A) for his afresh adjudication on merit as per law. Ordered accordingly.

4. This assessee's appeal is allowed for statistical purpose in above terms.

Order pronounced in the Open Court on this 29th day of August, 2022.

Sd/- (DR.DIPAK P.RIPOTE)	Sd/- (S.S. GODARA)
लेखा सदस्य/ ACCOUNTANT MEMBER	न्यायिक सदस्य/ JUDICIAL MEMBER
पुणे / Pune; दिनांक / Dated : 29 th August, 2022.	

Ashwini

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-7, Pune.
4. The Pr.CIT-6, 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	21.06.2022	
2	Draft placed before author	25.08.2022	
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		