

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. / ITA No.737/PUN/2021

निर्धारण वर्ष / Assessment Year : 2013-14

Ravijeet Rattansingh Sachdeva, Ivory Villa, Bungalow No.13, Opposite Mantra Mira Apartments, Balewadi Phata, Baner, Pune- 411 045, Maharashtra PAN : AENPS5072B	Vs.	ITO, Ward-2(1), Pune
(Appellant)		Respondent)

Appellant by None
Respondent by Shri Ramnath P. Murkunde

Date of hearing 30-08-2022
Date of pronouncement 30-08-2022

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee is directed against the order passed by the CIT(A)-3, Pune on 29-06-2020 in relation to the assessment year 2013-14.

2. The appeal is time barred by 481 days. The assessee has filed an affidavit explaining the reasons. It has also been submitted that the delay pertains to Covid-19 pandemic period and sought to condone the delay by virtue of judgment of the Hon'ble Supreme Court in *Cognizance for Extension of Limitation, In re 438 ITR 296 (SC) read with judgment in*

Cognizance for Extension of Limitation, In re 432 ITR 206 (SC) dated 08-03-2021 and 421 ITR 314. I am satisfied with the reasons so stated for the delay, which is hereby condoned and the appeal is admitted for disposal on merits.

3. It is the second round of proceedings before the tribunal as well as the Id. CIT(A) towards litigation on the issue of capital gain.

4. The factual matrix of the case is that the assessee along with other two persons owned a property which was sold for a sum of Rs.3.38 crore, with the assessee's share coming at Rs.64,08,518/-. The assessee deposited a sum of Rs.25.00 lakh in Capital Gain Account and a further sum of Rs.37,55,520/- was deposited as investment in a plot of land for constructing a residential house. The remaining amount was offered for taxation. The Assessing Officer (AO) did not accept the claim in respect of investment in plot and made an addition of Rs.37,55,520/-, which was countenanced by the Id. CIT(A). The matter came up before the Tribunal in the first round. Vide order dated 31-12-2019, the Tribunal set-aside the impugned order by noticing that the Id. CIT(A) passed a non-speaking order. Thereafter, the Tribunal gave directions to the Id. CIT(A) for

passing the order in conformity thereto, which are reproduced as under :

“10. Therefore, I am of the considered opinion that the order of the CIT(A) needs to be set-aside and issues needs to be remanded to the file of the CIT(A) for fresh adjudication in the matter. The CIT(A) is required to attend other arguments, both on legal as well as on merits, and bring all the facts on record instead of merely extracting the order of the Assessing Officer. CIT(A) shall note the language of the relevant provisions before rejecting the claims of the assessee. CIT(A) shall also note that the Act provides time more than 12 months where the reinvestment involves construction of the residential house. Reasons for delay in the reinvestments become relevant too. Needless to say, the CIT(A) shall grant reasonable opportunity of being heard to the assessee in accordance with set principles of natural justice. Thus, the grounds raised by the assessee are allowed for statistical purposes.”

5. I have heard the Id. DR and gone through the relevant material on record. There is no appearance from the side of assessee despite notice. It is seen that, in the instant round of proceedings also, the Id. CIT(A) has repeated his action of the first round without fully following the directions given by the Tribunal. The assessee has raised a specific ground that the directions given by the Tribunal were not followed by the Id. CIT(A), which position could not be controverted by the Id. DR. In view of the foregoing discussion, I set-aside the impugned order and remit the matter to file of the Id. CIT(A) for following

the directions given by the Tribunal in letter and spirit before deciding the issue afresh. Needless to say, the assessee will be allowed reasonable opportunity of hearing. The impugned order is therefore, set aside and the matter is restored to the file of the Id. CIT(A).

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

Order pronounced in the Open Court on 30th August, 2022.

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

पुणे Pune; दिनांक Dated : 30th August, 2022
Satish

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order is 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, 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	30-08-2022	Sr.PS
2.	Draft placed before author	30-08-2022	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.		

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