



IN THE INCOME TAX APPELLATE TRIBUNAL 'A' BENCH, PUNE

**BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM
AND DR. DIPAK P. RIPOTE, AM**

ITA No. 1848/PUN/2018 : Assessment Year : 2012-13

The I.T.O. Ward 2(3) Aurangabad

:Appellant

Vs.

Shri Ajay H. Jain
Shop No. 1, Radhika Arcade
Nupur Complex, Near Atithi Hotel,
Jalna Road, Aurangabad-431 001
PAN: AFLPJ 7181 B

: Respondent

Appellant by : None

Respondent by : Shri Arvind Desai

Date of Hearing : 29-08-2022

Date of Pronouncement : ___-08-2022

ORDER

PER PARTHA SARATHI CHAUDHURY, JM :

This appeal preferred by the Revenue emanates from the order of the Id. CIT(A)-2, Aurangabad dated 10-09-2018 for A.Y. 2012-13 as per the following grounds of appeal.

1. *The Id. CIT(A) erred in both on facts and in law in passing the order.*
2. *The Id. CIT(A) failed to appreciate the fact that property in question viz. agricultural lands at a village Mauje Dahegaon, Tal. Gangapur, Dist.. Aurangabad were purchased by assessee alongwith 6 co-owners living in three different districts viz. Aurangabad, Jalgaon and Nandurbar vide purchase deeds dated 16-12-2010 and 10-5-2011.*
3. *The Id. CIT(A) failed to appreciate the fact that the said lands were sold as it is within a short span of seven months and twelve months vide sale deed dated 17-12-2011 for a consideration which is almost 25 times of the purchase cots. The sale consideration claimed is unusually high particularly considering the valuation of property for the stamp duty purchase by office of the sub-registrar.*
4. *The Id. CIT(A) failed to appreciate the fact that assessee is engaged in the business of trading of plots and he has shown closing stock at Rs. 54,48,092/- as on 31-03-2011 and Rs. 1,38,55,886/- as on 31-03-2012 declaring total income at Rs. 26,040/-. In the said return of income, the assessee neither disclosed the said transaction nor claimed any income as exempt from the said transactions.*



5. *The Id. CIT(A) failed to appreciate the fact that in the sale deed also, it is clearly mentioned that the said land is sold only because it is not possible for them to jointly cultivate the said land and seller wanted to make some other investments. Further in the sale deed it is also mentioned that the land is open without any construction on it.*
6. *The Id. CIT(A) failed to appreciate the fact that the claim of the assessee that the lands were purchased with the intention of developing a fruit orchard is not supported by any cogent evidences like correspondence with Food Ministry or any other related Government Department.*
7. *The Id. CIT(A) ought to have held that the transaction of sale of agricultural land as adventure in the nature of trade and upheld the addition made by the AO.*
8. *The appellant craves leave to add, amend or alter any grounds of appeal."*

2. The brief facts of the case are that the return of income for AY 2012-13 was filed by the assessee on 26-08-2012 declaring total income at Rs. 26,040/- and agricultural income at Rs. 80,000/-. Subsequently, on the basis of information received from the CIT(A)-2, Nashik and the A.O had issued notice u/s 148 dated 27-03-2017 to the assessee. While assessing the income of the assessee, the AO had made an addition of Rs. 2,40,37,290/- to the returned income of the assessee. The said addition was made by treating the transaction of sale of agricultural land as adventure in the nature of trade. In para 3 of the assessment order, the AO had stated that notice u/s 148 of the Act had been issued on the basis of information received from CIT(A)-2, Nasik. Thus the AO had issued notice on the basis of borrowed information and there was lack of application of mind. In number of judicial precedents, it was held that issue of notice under section 148 without application of mind was invalid. Hence it was requested to cancel the assessment completed on the basis of notice issued under section 148 of the Act which itself was invalid. It was stated that the assessee was an agriculturist. While assessing the income of the assessee, the AO had treated transaction of sale of agricultural land as 'adventure in the nature of trade' and made addition on account of profit of Rs.



2,40,37,2901- in this transaction to the returned income of the assessee. It was stated that during the FY 2010-11, the following agricultural lands at Gut no. 167/1, 16712 and 177, Dahegaon, Taluka- Gangapur were purchased by the assessee along with six others co-owners and the share of the assessee in the said lands was 1/7th:

Sr. No.	Details of agricultural lands purchased	Total Agri. land purchased	Date of purchase of Azri Land	Total purchase cost
1.	Agri. land at Gut no. 167/1 at village Dahegaon Tq: Gangapur, Dist: Aurangabad,	01 Hectare 97R	16.12.2010	6,88,712/-
2.	Agri. land at Gut no. 167/1 at village Dahegaon Tq: Gangapur, Dist: Aurangabad,	03 Hectare 72R	16.12.2010	13,00,512/-
3. ,	Agri. land at Gut no. 167/1 at village Dahegaon Tq: Gangapur, Dist: Aurangabad,	02 Hectare 72R	10.05.2011	5,11,000/-
4.	Agri.land at Gut no. 167/1 at village Dahegaon Tq: Gangapur, Dist: Aurangabad.	03 Hectare 99R	16.12.2010	13,94,904/-
5.	Agri. land at Gut no. 167/1 at village Dahegaon Tq: Gangapur, Dist: Aurangabad.	03 Hectare 72R	16.12.2010	13,00,512/-
6.	Agri. land at Gut no. 167/2 at village Dahegaon Tq: Gangapur, Dist: Aurangabad,	02 Hectare 78R	16.12.2010	9,71,888/-
7.	Agri. land at Gut no. 177 at village Dahegaon Tq: Gangapur, Dist: Aurangabad,	01 Hectare 09R	16.12.2010	3,81,064/-
8.	Agri. land at Gut no. 167/2 at village Dahegaon Tq: Gangapur, Dist: Aurangabad.	02 Hectare 75R	16.12.2010	9,61,400/-

3. The above mentioned agricultural lands were purchased by the assessee with other six friends with an intention to start horticultural activities on the said agricultural lands. As huge investment was required for the development of these lands for horticulture purpose, they had also approached the financial institutions for financial assistance, but due to one or more reasons they could nor get the financial assistance and meanwhile they received the good offer for the said lands and as prudential persons and in the



interest of all, they sold these agricultural lands. During the FY 2011-12 corresponding to AY 2012-13, the assessee sold the agricultural lands along with six other persons whose names, addresses, PAN and Jurisdictional Assessing Officers were given as under:

Sr. No.	Name	Address	PAN	Assessed at
1	Ajay Hastimal Jain	Shop No.1, Radhika Arcade, Nupur Complex, Near Atithi Hotel, Ialna Road, Aurangabad.	AFLPJ7181B	Income Tax Officer, Ward 2(3), Aurangabad
2	Ashish Gopi Ghodele	Dwarkapuri, Bansilal Nagar, Aurangabad	AYGPG4267K	ACIT Circle-L, Aurangabad
3	Dharmendra Lokchand Ramnani	15, Bharat Nagar, Near Jyoti Nagar, Aurangabad	ABFPR8791R	ACIT Circle-3, Aurangabad
4	Sandeep Suvalal Challani	17, Kushal Nagar, Ialna Road, Aurangabad	AEIPC8542B	Ward 2(1), Aurangabad
5	Vikas Ravinder Agnihotri	145, Jyoti Nagar, Aurangabad	AFMPA0571P	Ward 3(2), Aurangabad
6	Paras jawarilal Raka	180, Bank Street, Navi Peth, Ialgaon	AAKPR8642R	Circle 1, Ialgaon
7	Ajay Shantilal Lalwani	56, javnagar. Ialgaon	AAEPL3257C	Circle 1, Ialgaon

The above agricultural lands were sold by these seven persons for total consideration of Rs. 17,61,72,844/- the details of which were as under:

Sr.No.	Particulars of Agri. Land sold	Total area of agri. Land sold	Date of sale of agri. Land	Sale consideration of agri. Lands sold
1	Agi. Land at Gut No. 167/1	16H-12R	17.12.2011	12,48,79,238/-
2.	Agi. Land at Gut No. 167/2	05H-53R	17.12.2011	4,28,59,633/-
3.	Agri. Land at Gut No. 177	01H-09R	17.12.2011	84,33,973/-

The assessee's 1/7th share in total sale consideration was at Rs.2,51,67,549/-.

The assessee has duly disclosed transaction of sale of agricultural land and profit of Rs.2,40,37,290/- there from in the balance sheet as on 31.03.2012



enclosed along with the return of income filed for AY 2012-13. The assessee had shown the above referred agricultural lands purchased by him as 'fixed assets' in the balance sheet as on 31.03.2011 which was filed along with the return of income for AY 2011-12 and same was also submitted before the AO the course of assessment proceedings. The agricultural lands in question were also shown in revenue record as agricultural lands and details of crop pattern had been duly recorded by the Revenue Authorities in the 7/12 extracts of the said agricultural lands. Tile copies of the 7/12 extracts were submitted before the AO during the course of assessment proceedings. The agricultural lands in question were situated at Village Dahegaon, Taluka- Gangapur, District- Aurangabad and were beyond 8 k.ms from the Municipal Limits and as such were not capital assets within the meaning of the section 2(14) of the Act. The certificate from the competent authority evidencing this fact had been submitted before the AO during the course of assessment proceedings. The agricultural lands in question were sold in acres in totality without dividing or sub-dividing the same into small pieces. Neither said agricultural lands were converted into non-agriculture or layout of plotting for use other than agriculture was prepared by the assessee from the purchasers of the said agricultural lands and up to the sale of the said agricultural lands. Even before the purchase of said agricultural lands, same were used for agricultural purposes and even after sale and till this date, same agricultural lands were used for agricultural purpose only. The appellant was an agriculturist and even before acquiring the agricultural lands in question, he was deriving income from agricultural activities and same had been duly disclosed by him in the returns of income filed by him. In order to prove these facts, copies of the returns of income, statement of total income and balance sheets for three years i.e. for AY 2010-11, AY 2011-12



and AY 2013-14 were also submitted. On going through the same, it could be appreciated that the assessee has shown agricultural income from the agricultural lands in question only. Moreover factually he was an agriculturist and engaged in agricultural activities since many years and therefore the agricultural lands in question were purchased by him with the intention to carry on agricultural activities thereon and to earn agricultural income thereon. All the seven persons who had purchased the agricultural lands in question jointly were regularly assessed to the income-tax and they all had reflected these transactions of sale of agricultural lands in their respective returns of A.Y 2012-13. Out of these seven persons, the assessments of following three persons were made under section 143(3) of the Act, details of which were as under:

Sr.No.	Name of the person	PAN	Assessed at	Remarks
1.	Dharmendra Lokchand Ramnani	ABFPR8791R	ACIT Cir. 3 Aurangabad	The department vide Asstt. Order dated 17-03-2015 had accepted the stand of the assessee that profit from sale of agricultural lands was not taxable.
2.	Vikas Ravinder Agnihotri	AFMPA0571P	Ward 3(2) Aurangabad	The department vide Asstt. Order dated 21-3-2015 had accepted the stand of the assessee that profit from sale of agricultural lands was not taxable.
3.	Paras Jawarilal Raka	AAKPR8642R	Circle 1, Jalgaon	His Assessing Officer added the profit from sale of agricultural land to his returned income. On first appeal before the CIT(A) assessment order was confirmed but on second appeal, the Hon'ble ITAT decided the issue in favour of the assessee vide order dated 17-05-2018.



4. As far as cases of remaining three were concerned, the Department had accepted their returns and not issued any further notice. The AO in his assessment order had not disputed the following facts:

- (a) The assessee had submitted 7/12 extracts during the course of assessment proceedings in which crop pattern had been given.
- (b) The agricultural lands in question were situated beyond 8 kms from the Municipal Limits.
- (c) The agricultural lands in question were not converted in to Non-Agriculture before the sale.
- (d) Agricultural lands in question were sold in acres in toto and no layout dividing it into small pieces of plots was done before sale.
- (e) The assessee has disclosed the agricultural lands in question under the head 'fixed assets'.

5. The AO had taken following views and treated the transaction of sale of agricultural lands as "adventure in the nature of trade" and added profit of Rs..2,40,37,290/- to the returned income of the assessee:

- (a) The assessee had sold the agricultural lands in question within a short period of 7 months to 12 months.
- (b) The assessee had sold the agricultural lands in question for a price which was above 25 times of the purchase price and such exorbitant sale consideration claimed by the assessee appeared to be impossible as the Sub-Registrar had estimated the price of the said lands at Rs. 1,30,000/- per acre.
- (c) The assessee has filed 7/12 extracts but merely filing a 7/12 extract did not prove that land had been cultivated.
- (d) The adventure in the nature of trade could arise even on purchase and sale of agricultural lands in the case where the lands were purchased with the intention to earn profit.



- (e) The AO accepted the fact that the agricultural lands in question had been shown by the assessee in balance sheet under the head 'fixed assets'. But he stated that it was a settled position of law that entries made in the books of accounts and balance sheet were not decisive but the actual facts and transactions were to be considered for deciding the issue under the Income Tax Act.
- (f) The AO had distinguished on facts the cases relied by the assessee during the assessment proceedings on following facts:
- i) The various lands at Dahegaon were purchased by 7 co-owners, who were residing in 3 different districts which were located far away from each other.
 - ii.) The contention of the assessee that the lands were purchased for carrying out agricultural activity for longer period was found to be incorrect and false.
 - iii.)The lands were sold within 07 months and 12 months after purchasing the same.
 - iv.) The assessee along with other Co-owners have sold the impugned lands at a price which is 25 times of the purchase price of the said lands.
- g) Further in para 6.6 of the assessment order, the AO had narrated the meaning of 'adventure in the nature of trade' and concluded that 'in the face of its own evidence a case had to be decided but the motive could never be irrelevant to be inferred by surrounding circumstances and the intention behind the said activity. The motive of the seller, his intention behind sale, his overall activity of accomplish, the desired goal were all in conjunction with the conduct of the assessee so as to establish that the



adventure as taken by him was within the sphere of trade activity.

h) The AO placed reliance on the decision of the Honorable Supreme Court in the case of Mohammed Meera Khan vs. CIT (73 ITR 735). It was held that a single transaction might also constitute an adventure in the nature of trade. There need not be regularity or repetitiveness as in the activity.

i) Finally, by placing reliance on above decision of the Honorable Supreme Court, the AO in para 6.8 of the assessment order concluded that in this case the principle was applied that "dominant impression", the ultimate test'. It was held that circumstances were taken into consideration and due weight given to them was that the transaction entered into by the assessee for purchase and sale of land situated at Dahegaon was part of regular business activities of the assessee. Accordingly the said plot was treated as trading asset and the profit earned was business income.

6. On through the above observations, views and conclusions of the AO, it could be seen that these were based merely on assumptions and presumptions and it had been proved by the AO that facts stated and submitted by the assessee were false. The AD had also not considered the crop cultivation certificate as well the 7/12 issued by the Competent Authority submitted by the assessee which clearly stated that the agricultural lands in question were under cultivation in FY 2010-11. The AO had also not considered the sale pattis for sale of the crops that were cultivated on the agricultural land in question. The AO had not given proper thought to the past history and past income tax records of the assessee from which it was well proved fact that assessee was an agriculturist and he had derived agricultural income not only in this assessment year but regularly since many years, he was earning income from agricultural activities. The AO for the sake of his convenience, had given stress on the fact that the agricultural lands in question were owned jointly by seven persons but he conveniently avoided to narrate the facts that in the Income



Tax assessments for the same assessment year the Department has accepted the stand of the two assessee i.e. Mr. Ramnani and Mr. Agnihotri and he also neglected the fact even in the cases of other remaining assessee, the Department has accepted their returns and till date of as. assessment not any notice has been sent to them. Thus by doing this the AO has contradicted the view of the Department itself. Shri Paras Jawarilal Raka who was one of the joint owners of the agricultural lands was assessed with ACIT, Circle 1" Jalgaon. His case for the AY 2012-13 was selected under scrutiny and during the course of scrutiny proceedings, the issue of profit on sale of agricultural lands had arisen and the Assessing Officer was not convinced about the non taxability of the said profit and addition of Rs.2,41,14,550/- was made to his returned income. The appeal was filed by him challenging the said addition before the Commissioner of Income Tax (Appeals-2), Nashik. The addition made by the Assessing Officer in his assessment order dated 23.03.2015 was confirmed by the CIT (A)-2, Nashik vide appellate order dated 26.12.2016. The second appeal was filed by Shri Paras Jawarilal Raka before the Honorable ITAT Pune. The Honorable ITAT Pune vide appellate order in ITA No.77/PUN/2017 dated 17.05.2018 for AY 2012-13 decided the issue of profit on sale of Agricultural Land in favour of the assessee by dismissing the appeal of the revenue. The facts of the case of the assessee were similar to the facts of Shri Paras Jawarilal Raka who was also one of co-owners with the assessee in the sale transaction of agricultural lands in question. Considering the decision of Jurisdictional Tribunal i.e. IT AT Pune Bench in the case of Shri Paras Jawarilal Raka and facts of the case, it was requested to delete the addition of Rs.2,40,37,290/- made by the AO.

7. The Id. CIT(A) has given relief to the assessee on the basis of the order of Pune Tribunal in ITA No. 77/PUN/2017 dated 17-05-2018 in respect of one of the co-owners Shri Paras Jawarilal Raka where the addition was deleted and it was appreciated by the Id. CIT(A) that under the same facts and circumstances, therefore, the assessee who was the



other co-owner, addition cannot be sustained. The relevant paragraph is as follows:

“I have duly considered the submissions of the appellant. In the present case, the has treated the transaction of sale of agricultural land as "adventure in the nature of trade" and thereby taxed surplus of Rs. 2,40,37,290/- from sale of agricultural lands at Gut no. 167/1, 167/2 and 177 at Dahegaon, Taluka-Gangapur. However these transactions were carried out by 7 co-owners including the appellant. It is further brought to my notice by the counsel of the appellant that in the purchase and sale of agricultural lands in question, one of the co-owners namely Shri Paras Jawarilal Raka had preferred appeal to the Hon'ble Pune ITAT against the addition of Rs.2,41,14,550/- made in his case for AY 2012-13 on account of business profits i.e. adventure in nature of trade. The Hon'ble Pune ITAT vide its order in ITA No.77/PUN/2017 dated 17.05.2018 had deleted the said addition by making the following observations:

5. Before us, Ld AR reiterated the submissions made before the lower authorities and further submitted that the assessee has declared agriculture income since last many years and the same has been accepted by the Revenue. He further submitted that the land at Dahegaon is situated beyond 8 kms from any Municipality. The land was purchased by the assessee with 6 other co-owners with the intention to develop fruit orchard and for which the assessee and the co-owners approached various Financial Institutions for finance but since all the institutions insisted on further infusion of money by the promoters and since many of the co-owners were not willing to invest more money and considering the favourable market conditions, the land was sold. He further submitted that the assessee never got the land plotted/sub-plotted for sale or sought conversion of land from agriculture to non-agriculture use and never carried out any activity to commercially exploit the land and that the aforesaid land till date continues to be "Agricultural land" and in support of which he pointed to the copies of 7/12 extract of the land. He further submitted that during the period under consideration the land was put to agricultural use and the produce cultivated from the land was sold and the sale proceeds are disclosed in the return of income. He further submitted that the land was not reflected in assessee's balance as stock in trade but as investment. He further submitted that the Hon'ble Supreme Court in the case of Sarifabibi Mohamed Ibrahim Vs. CIT reported in (1993) 204 ITR 631 (SC) has laid down 13 tests/factors which are required to be considered to determine whether the sale of land is agriculture land or not. He pointed to the table of aforesaid tests as laid down by Hon'ble Supreme Court and assessee's position vis-a-vis those tests at page 11 of the paper book and pointing to the same, he submitted that after considering those tests, assessee's case cannot be considered to be in the adventure in the nature of trade. He further pointed to the table reproduced by the Ld.CIT(A) at page 9 and 10 of the order and pointed out that out of 6 co-owners, in the case of 2 coowners, the sale of land has been accepted to be exempt in the order passed u/s 143(3) of the Act by their respective A.Os. He further placed reliance on the decision of Hon'ble Bombay High court in the case of CIT Vs. Dhable, Bobde, Parose, Kale, Lute & Choudhari reported in (1993) 202 ITR 98 (Bom) wherein the land sold within a short period of purchase was held to be exempt. He also relied on the decision in the case of Bhogilal H. Patel Vs. CIT reported in (1969) 74 ITR 692 (Bom) for the proposition that intention at the inception is crucial and that the mere circumstance that a property is purchased in the hope that when sold later on, it would leave a margin of profit will not be sufficient to show that the intention was to trade at inception. He further relied on the decision of Hon'ble Bombay High Court in the case of Gopal C. Sharma Vs. CIT reported in (1994) 209 ITR 946 (Bom) for the proposition that the profit motive without anything more by itself can never be decisive for determination of the issue as



to whether the transaction amounted to adventure in the nature of trade. He therefore submitted that the order of Ld.CIT(A) upholding the order of AO be set aside. Ld DR on the other hand took us through the findings of AO and Ld.CIT(A) and supported their order. He further submitted that assessee had not produced any evidence to demonstrate of having indulged into any agricultural activity on the land. He thus supports the order of Ld.CIT(A).

6. We have heard the rival submissions and perused the material on record. The issue in the present case is about the taxability of profits earned on sale of land. It is assessee's contention that profits are exempt from tax as the land is agriculture land whereas the Revenue's stand is that the sale of land is adventure in the nature of trade and therefore business income. It is an undisputed fact that assessee along with 6 co-owners had purchased land at Dahegaon, which is located beyond 8 kms from any Municipality and the same was sold during the year under consideration. The disclosure of the land in assessee's balance sheet as investments is not in dispute. The Submission of the assessee that the land has been classified in the Revenue records as agricultural land, no permission from the concerned authorities has been obtained for transfer for non-agricultural use, no plotting/sub plotting of the land has been undertaken by the assessee has not been controverted by Revenue. Further the submission of the assessee that the produce from the sale of cultivation was disclosed by the assessee, that the assessee wanted to start horticulture activities and for which the assessee had approached bank for financial assistance has not been proved to be false. We further find that the assessee's contention of having satisfied of the various parameters spelt out by Hon'ble Apex Court in the case Sarifabibi (supra) to hold the land as agricultural land has been met and the contention of the assessee has not been found to be incorrect.

7. We further find that in case of 2 co-owners (namely, Shri Dharmendra Ramnani and Vikas Agnihotri) their claim of share of profit on sale of the same land being exempt, due to land being agricultural land has been accepted by the Revenue in their assessments framed u/s 143(3) of the Act. Thus, when the share of profit arising out of sale of same land in case of 2 co-owners has been accepted by Revenue in the scrutiny proceedings, then on the same set of facts taking a different view by the Revenue Department in the case of assessee cannot be accepted. One of the objection of Revenue in treating the profits as capital gains is that the land was sold within a period of 7 months from its date of purchase and the sale price was more than 25 times to the purchase price. We find that in the case of CIT Vs. Dhable, Bobde and others (supra), the assessee, an association of persons, had purchased agricultural land in October, 1966 and sold in January, 1967 and had claimed it to be exempt. Revenue treated the transaction to be on adventure in the nature of trade and held it as taxable business come. The Hon'ble High Court while deciding the issue in favour of assessee has held that the onus of proving that the land formed part of business asset of the assessee was on Revenue and in the absence of evidence to that effect, the presumption was that land was held as capital asset and therefore income on its transfer was not income from business. was held as capital asset and therefore income on its transfer was not income from business. Before us, Revenue has not placed any material to prove that the land formed part of business asset of the assessee. Further the contentions of the Ld AR have not been controverted by Revenue. In such a situation, we are of the view that the ratio of the decision in the case of Dhoble, Bobde and others (supra) would be applicable to the present case. We therefore after relying on the various decisions cited by the assessee, are of the view that the AO and Ld.CIT(A) *were not justified in treating the profits from sale of land as business income. We therefore set aside the order of Ld.CIT(A) and thus the ground of the assessee are allowed.*

8. *In the result, the appeal of assessee is allowed.*



Since the facts and circumstances in the present case are similar to that of Shri Paras Jawarilal Raka (one of the co-owners and in order to maintain judicial discipline, the addition of Rs. 2,40,37,290/- made by the AO is directed to be deleted. The second ground of appeal is accordingly allowed. Since the quantum addition has been deleted by the undersigned therefore, there is no need to adjudicate the first ground of appeal relating to re-opening of assessment by issue of notice u/s 148 of the Income-tax Act, 1961."

8. At the time of hearing, none appeared for the assessee. The Id. D.R conceded that the Pune Tribunal had provided relief to the other co-owner Shri Paras Jawarilal Raka and the additions were deleted following the same parity of reasoning in respect of the assessee who is the other co-owner. Considering the submissions of the Id. D.R and having perused the materials on record and the orders of the sub-ordinate authorities along with the judicial pronouncement, we find Mr. Paras Jawarilal Raka who is one of the co-owners in the entire transaction for which the Tribunal had provided relief and the Id. CIT(A) had relying on the said decision provided relief to the assessee herein. In such circumstances, we find no reason to interfere with the findings of the Id. CIT(A) and the relief provided to the assessee. The same is sustained.

9. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 30th day of August 2022.

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER
Pune; Dated, this 30th day of August 2022
Ankam

sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT-2 , Aurangabad .
4. The CIT(A)-2 Aurangabad
5. The D.R. ITAT 'A' Bench Pune.
6. Guard File

BY ORDER,

/// TRUE COPY ///

Sr. Private Secretary
ITAT, Pune



		Date	
1	Draft dictated on	30-08-2022	Sr.PS
2	Draft placed before author	31-08-2022	Sr.PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
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		