

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. / ITA No.682/PUN/2019

निर्धारण वर्ष / Assessment Year : 2010-11

Bhopanlal Bholaram Satikar, House No.10, Old Mondha Road, Jalna – 431203 PAN : EOIPS6879M	<b>Vs.</b>	ACIT, Jalna Circle, Jalna
(Appellant)		Respondent)

Appellant by None  
Respondent by Shri Arvind Desai

Date of hearing 01-09-2022  
Date of pronouncement 01-09-2022

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee is directed against the order passed by the CIT(A)-1, Aurangabad on 09-01-2019 in relation to the assessment year 2010-11.

2. The only issue raised in this appeal is against the confirmation/enhancement of addition amounting to Rs.37,32,300/-.

3. The factual matrix of the case is that the assessee did not file his return for the year under consideration. The Assessing Officer (AO) got information that the assessee had sold some property situated at Survey No.139 admeasuring 7 hectares 74R for a consideration of Rs.1,18,64,600/- on 25-09-2010. The land

was within the municipal limits and hence, a capital asset. Since the assessee had not shown any income therefrom, a notice u/s.148 was issued. A return was filed pursuant to this notice on 03-01-2013. The AO observed that the assessee had not disclosed the transaction under consideration which was subject matter of notice u/s.148. He computed the capital gain by taking the assessee's share at 19.38% and determined the full value of consideration pertaining to assessee's share at Rs.23.00 lakh. After allowing the deduction for indexed cost of acquisition, he determined the amount of long term capital gain at Rs.21,54,716/-. The ld. CIT(A) made enhancement by observing that the assessee has one-half share in the property along with his brother and not 19.38% as taken by the AO. He, therefore, made enhancement by computing the amount of capital gain by taking the assessee's share in the full value of consideration at one-half, which led to the enhancement and increase in the overall addition to Rs.37,32,300/-.

4. I have heard the ld. DR and gone through the relevant material on record. The appeal was fixed for hearing for the first time on 19-06-2019 when it was adjourned at the request of the assessee. The appeal came to be adjourned on several occasions

by the Tribunal and mostly the assessee evaded the attendance. Considering the pendency of appeal for such a long period after its fixation, I am inclined to dispose of the appeal *ex parte qua* the assessee.

5. It is seen that the assessee did not declare any income as long term capital gain on the property which was admittedly transferred during the year. The AO considered the assessee's share at 19.38%. However, the Id CIT(A), after taking into consideration the entire gamut of material, came to hold that the assessee was having one-half share in the property. No material has been placed on record to controvert the finding of the Id. CIT(A). As the assessee had not declared the income from transfer of such property, the inescapable conclusion is that the addition as enhanced by the Id. CIT(A) is correct and does not warrant any interference.

6. In the result, the appeal is dismissed.

Order pronounced in the Open Court on 01<sup>st</sup> September, 2022.

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

पुणे Pune; दिनांक Dated : 01<sup>st</sup> September, 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)-1, Aurangabad
4. The Pr.CIT-1, Aurangabad
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	01-09-2022	Sr.PS
2.	Draft placed before author	01-09-2022	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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