

आयकर अपीलीय अधिकरण “बी” न्यायपीठ पुणे में।
IN THE INCOME TAX APPELLATE TRIBUNAL “B”
BENCH, PUNE

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND SHRI GD PADMASHALI, ACCOUNTANT MEMBER

आयकर अपीलसं. / ITA No.1647/PUN/2018
निर्धारणवर्ष / Assessment Year : 2009-10

Balaji Green Valley Home Developers, 604 Gulmohar, Green Valley Solciety, Wanawadi, Pune – 411040. PAN: AAIFB 3626 R	Vs .	The ITO, Ward-2(2), Pune.
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri Pramod Shingte – AR
Revenue by	Shri M.G.Jasnani – DR
Date of hearing	18/08/2022
Date of pronouncement	30/08/2022

आदेश/ ORDER

Per S.S.Godara, JM:

This assessee’s appeal for Assessment Year 2009-10 is directed against the Commissioner of Income Tax(Appeals), Pune-3’s order dated 30.07.2018 passed in appeal no.ITBA/APL/S/250/2018-19/1010716458(1), in proceedings u/s.250 of the Income Tax Act, 1961 [in short “the Act”].

Heard both the parties. The assessee’s detailed paper book running into 69 pages containing all the relevant documents stands perused.

2. It emerges during the course of hearing that the assessee has pressed its third substantive ground only challenging correctness of both the lower authorities action making section 69B unexplained income addition of Rs.50 lakhs, during the course of assessment herein dated 22.03.2016 as upheld in the CIT(A)'s order.

3. We next note that the foregoing addition of Rs.50 lakhs pertains to the assessee's twin sale deeds completed in the relevant previous year 2009-10. The former sale deed hereinabove pertains to 35 guntas of land at GAT No.1155, Shikrapur Road, Chakan, Pune wherein the actual sale price was found to be Rs.60 lakhs whereas there existed an agreement dated 07.11.2007 between vendor Shri Sarang Viswanath Joshi and Shri Charudatta Joshi with the vendee Shri KishanAnandraoSonawane for Rs.105,00,000/-, thereby resulting in differential amount of Rs.45 lakhs. It is this sum of Rs.45 lakhs which stands added under section 69B of the Act at the first instance.

4. Learned DR strongly supported the impugned addition of Rs.45 lakhs in light of the fact that the former vendee Shri Krishan AnandraSonawane had acted as a confirming party in the assessee's sale deed. All these Revenue's arguments fail to evoke our concurrence since there is no material on record at all(including the sale deed herein registered on 28.04.2008) which could indicate that

all these three parties had finalised the impugned consideration of Rs.60 lakhs with regard to the earlier agreed price of Rs.105,00,000/- or this taxpayer had agreed to pay the same thereby understanding the understating the alleged on-money. It therefore turns out to be a presumption based addition only which is directed to be deleted to the extent of Rs.45 lakhs.

5. Next comes the latter addition component of Rs.5 lakhs wherein the Department had found the agreement value between Shri Sonanawane and assessee as Rs.25 lakhs whereas the sale deed was found to have been executed for Rs.20 lakhs only. Learned counsel could hardly indicate the corroborative circumstances and negotiations between the parties leading to reduction in sale price from Rs.25 lakhs to Rs.20 lakhs. We thus confirm the impugned latter addition of Rs.5 lakhs in assessee's hands. Necessary computation shall follow as per law.

6. This assessee's appeal is partly allowed in above terms.

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

Sd/-
(GD PADMASHALI)
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 30th Aug, 2022/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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