

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH,
PUNE

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER AND
DR.DIPAK P.RIPOTE, ACCOUNTANT MEMBER

आयकरअपीलसं. / ITA Nos.3032/PUN/2017 & 960/PUN/2019
निर्धारण वर्ष / Assessment Year: 2012-13

Eagle Flask Industries Pvt. Ltd., 4 th Floor, Parmar Gallery, Shivarkar Road, Wanowari, Pune 411 047 PAN : AAACE4197M	Vs	The Deputy Commissioner of Income Tax, Circle-8, Pune
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri M.K. Kulkarni
Revenue by	Smt. Divya Bajpai – DR
Date of hearing	15/09/2022
Date of pronouncement	23/09/2022

आदेश / ORDER

Per S.S.Godara, JM:

These assessee's twin appeals, both for A.Y.2012-13, arise against the Commissioner of Income Tax (Appeals)-6, Pune's orders dated 30.10.2017 and 17.05.2019 passed in Case Nos.PN/CIT(A)-6/DCIT Cir-8/10714/2016-17 and No.PN/CIT(A)-6/DCIT Cir-8/ 10356/2018-19, in proceedings u/s.143(3) r.w.s.147 and u/s.143(3) r.w.s.250 of the Income Tax Act, 1961, in short "the Act"; appeal wise respectively.

Heard both the parties. Case files perused.

2. Mr. Kulkarni submits at the outset that the assessee presses for the sole common issue of long term capital gain addition amounting to Rs.15,55,00,000/- only wherein the lower authorities have treated the

entire sale consideration than only the capital gains element therein as taxable under the provisions of the Act.

3. We note in this limited factual backdrop that there is hardly any much requirement for us to delve deeper in the relevant factual matrix since the assessee's former appeal ITA No.3032/PUN/2017 is directed against the CIT(A) directions to the Assessing Officer to allow the indexed cost of acquisition in consequential computation (para Nos. 10.2.4. page 8) in his lower appellate order dated 30-10-2017. It further emerges that the Assessing Officer's consequential order dated 26-11-2018 (forming subject matter of challenge in assessee's latter appeal ITA No.960/PUN/2019) nowhere considered the foregoing directions in his consequential computation which stands upheld in the CIT(A) lower appellate order as well. It is thus an instance wherein both the assessing authority as well as the CIT(A) have not considered the assessee's sole substantive grievance pressed herein pertaining to the computation of the correct long term capital gains amount.

4. The Revenue vehemently argued that the assessee has not filed the corresponding cost of acquisition details in the lower proceedings. We do not see any such discussion indicating the assessee's alleged failure before the Assessing Officer or the CIT(A); as the case may be, sofar as the latter round of remand proceedings is concerned. We, therefore, deem it appropriate to restore the assessee's solitary common

substantive ground in both these appeals back to the Assessing Officer for his afresh computation of capital gains in tune with the CIT(A)'s former round of directions in Para 10.2.4 dated 30-10-2017. The assessee is also directed to file on record all the relevant details indicating cost of acquisition, if so advised. Ordered accordingly.

5. No other ground or argument has been pressed before us.
6. Both these assessee's appeals Nos.3032/PUN/2017 and 960/PUN/2019 are partly allowed for statistical purposes in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 23rd September, 2022.

Sd/-
(DIPAK P.RIPOTE)
ACCOUNTANT MEMBER

Sd/-
(S S GODARA)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 23rd September, 2022
Satish

आदेश की प्रतिलिपि अग्रेषित / 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. 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	Designation
1	Draft dictated on	16.09.2022		Sr. PS/PS
2	Draft placed before author	19.09.2022		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
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			