

आयकर अपीलीय अधिकरण “एक सदस्य मामला” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, PUNE

श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य के समक्ष ।
BEFORE SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1534/PUN/2019
निर्धारण वर्ष / Assessment Year : 2011-12

Smt. Neelima Pravinkumar Khamkar,
Prop. of M/s. Ruby Granites,
W. No. 10, House No. 211,
Radhakrishna Colony,
A/P. Ichalkaranji, Kolhapur-416115

PAN : AHPPK0005P

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward – 1, Ichalkaranji

.....प्रत्यर्थी / Respondent

Assessee by : Shri M.K. Kulkarni &
Mrs. J.R. Chandekar

Revenue by : Shri M.G. Jasnani

सुनवाई की तारीख / Date of Hearing : 19-09-2022

घोषणा की तारीख / Date of Pronouncement : 27-09-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 18-07-2019 passed by the Commissioner of Income Tax (Appeals)-2, Kolhapur [‘CIT(A)’] for assessment year 2011-12.

2. The assessee raised ground Nos. 1 to 7 concerning the only issue is as to whether the CIT(A) is justified in confirming the order of AO in denying the deduction u/s. 54F of the Act.

3. After hearing both the parties, I note that the assessee sold immovable properties i.e. land situated at Gat No. 607 A, At /Po. Mouje Korche, Tal. Hatkanangale, Dist. Kolhapur by various sale deeds. The AO reproduced the details of the said transactions in para 8 of the assessment order. According to the AO sale value of properties shown in the sale deeds are at Rs.25,37,000/- but, however the valuation as per stamp valuation authority at Rs.50,25,000/-. In order to get working of capital gain the AO sought valuation report from the Assistant Valuation Officer. The said valuation officer determined the value as per valuation report at Rs.35,36,000/- and proposed the long term capital gain at Rs.23,54,892/-. The AO was of the opinion that the assessee has purchased a residential property for Rs.21,71,000/- on 23-12-2010 and show caused the assessee why claim u/s. 54F of the Act should not be denied. The Id. AR submits that the assessee demolished the existing house as purchased on 23-12-2010 and due to various complaints by the neighbor the assessee could not complete the construction. I find that the said statement was made before the AO. In order to verify the said veracity of the said statement the AO deployed Inspector for verification of factual aspect whether any construction is made on the said property. The AO discussed the Inspector report in para 9 of the assessment order which clearly discloses that no construction/residential house on the said property vide report

dated 19-12-2016. The ld. AR fairly conceded the same, but however, submits that the construction was completed as on 31-03-2018 and prayed to remand the matter to the file of AO for his fresh verification in view of decision of Hon'ble High Court of Allahabad in the case of Ranjit Narang Vs. CIT reported in 317 ITR 332 (All.). On a careful reading of the decision of Hon'ble High Court of Allahabad in the case of Ranjit Narang (supra) which held that the amount of capital gains which has not been utilized u/s. 54F has to be charged after the expiry of three years from the date of sale of the asset. In the present case, admittedly, the assessee purchased a residential property on 23-12-2010 and the assessee sold immovable properties located at Mouje Korche by various sale deeds i.e. 22-02-2011, 17-03-2011 etc. as shown in para 8 of the assessment order. In pursuance of the decision of Hon'ble High Court of Allahabad the assessee required to construct a building as per the date of sale of asset i.e. 17-03-2011 within three years. Admittedly, the AO deployed Inspector to verify whether there is any construction/residential house constructed by the assessee. The Inspector submitted report on 19-12-2016 stating that no construction or residential house is existing at House No. 4, Ward No. 12, Ichalkaranji which clearly establishes the assessee could not construct a house within three years from the date of sale of its assets on 17-03-2011 till 19-12-2016. Therefore, the assessee made construction within three years and in my opinion, the AO rightly denied deduction u/s. 54F of the Act. Therefore, I find no infirmity in the order CIT(A) in confirming the order of AO. Thus, ground Nos. 1 to 7 raised by the assessee are dismissed.

4. In the result, the appeal of assessee is dismissed.

Order pronounced in the open court on 27th September, 2022.

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 27th September, 2022.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-2, Kolhapur
4. The Pr. CIT-2, Kolhapur
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक सदस्य मामला" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune