

IN THE INCOME TAX APPELLATE TRIBUNAL
PANAJI BENCH, PANAJI – VIRTUAL COURT

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.237/PAN/2019

निर्धारण वर्ष / Assessment Year: 2012-13

Deepak Satagouda Patil, Near Excise Office, HBC Road, Taluk: Athani, Dist: Belgaum- 591304. PAN : BFHPP3371Q	Vs.	ITO, Ward-1(3), Belgaum.
Appellant		Respondent

Assessee by : Shri Pramod Y. Vaidya

Revenue by : Shri N. Shrikanth

Date of hearing : 16.11.2022

Date of pronouncement : 21.11.2022

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of
1d. Commissioner of Income Tax (Appeals), Hubballi [‘the CIT(A)’]
dated 20.03.2019 for the assessment year 2012-13.

2. At the outset, there is a delay of 37 days in filing the present
appeal. The appellant had filed a condonation petition stating that the
delay had occurred on account of appellant suffering from severe back
pain and undergoing rest on the medical advice. The averments made in
the affidavit remain uncontroverted by the Revenue. In the
circumstances, I am of the considered opinion that it is a fit case for

condoning the delay of 37 days. Hence, delay is condoned. Now, I proceed to dispose of the case on merits.

3. Briefly, the facts of the case are that the appellant is an individual deriving income under the head "Income from other sources". The Return of Income for the assessment year 2012-13 was filed on 05.09.2012 declaring total income of Rs.4,31,618/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-1(3), Belgaum ('the Assessing Officer') vide order dated 27.10.2014 passed u/s 143(3) of the Income Tax Act, 1961 ('the Act') at a total income of Rs.45,50,630/-. The factual matrix of the case is as under :

The appellant had received a compensation from acquisition of land of Rs.92,94,788/- after claiming indexed cost of acquisition of Rs.16,61,609/-, capital gains of Rs.71,32,618/- against which deduction u/s 54 on account of construction of new house of Rs.67,01,000/- claimed and balance capital gains of Rs.4,31,618/- was offered to tax. During the course of assessment proceedings, the appellant could not substantiate the cost of improvement to the extent of Rs.10,52,000/- but, could substantiate a sum of Rs.7,54,000/-. In the circumstances, the

Assessing Officer computed the indexed cost of Rs.11,90,925/- against Rs.16,61,809/- claimed by the appellant.

As regards the claim for deduction on account of construction of new house u/s 54, the appellant could not substantiate the cost of construction of new house of Rs.32,96,000/-. However, the Assessing Officer had restricted the cost of construction of new house at the rate of 1500 per sq. ft. and also restricted the deduction u/s 54 of Rs.32,55,000/-.

4. Being aggrieved by the above assessment order, an appeal was filed before the ld. CIT(A) who vide impugned order dismissed the appeal *ex-parte*.

5. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

6. It is contended that the compensation received by the appellant for compulsory acquisition of land is exempt from tax u/s 10(10BC) of the Act. Without prejudice to the above, it is contended that the Assessing Officer should not have excluded the cost of acquisition of land while arriving the cost of new house for exemption u/s 54 of the Act.

7. I have carefully gone through the order of the Id. CIT(A) and find that the Id. CIT(A) had not examined the claim for exemption of the compensation received for acquisition of land from Government of Karnataka. Further, the Id. CIT(A) without deciding the appeal on merits merely dismissed the appeal for non-prosecution which is not permissible under law. In the circumstances, I remand the matter to the file of the Id. CIT(A) to decide the appeal in accordance with law after affording reasonable opportunity of being heard to the appellant.

8. In the result, the appeal filed by the assessee stands partly allowed for statistical purposes.

Order pronounced on this 21st day of November, 2022.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 21st November, 2022.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), Hubballi.
4. The Pr. CIT, Belgaum.
5. DR, ITAT, Panaji.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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