

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

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

ITA No.48/NAG/2020

निर्धारण वर्ष / Assessment Year : 2013-14

G.G. Dandekar Machine Works Ltd B-211/1, MIDC, Butibori, Nagpur-441122 PAN : AAACG6146L	Vs.	ACIT, Circle 3, Nagpur
Appellant		Respondent

Assessee by None
Revenue by Shri G.J. Ninawe
Date of hearing 16-11-2022
Date of pronouncement 09-12-2022

आदेश / ORDER

PER S.S. GODARA, JM:

This assessee's appeal for AY 2013-14 arises against the CIT(A)-2, Nagpur's order dated 17-12-2019 passed in case No. CIT(A)-2/56/2016-17 involving proceedings under Section 143(3) of the Income Tax Act, 1961, in short 'the Act'.

Case called twice. None appears at assessee's behest. It is accordingly proceeded ex parte.

2. It emerges during the course of hearing that the assessee's sole substantive ground challenging correctness of both the lower authorities action making long term capital gains addition of Rs.26.10 lakhs after invoking section 50C of the Act, hardly deserve a detailed discussion. Suffice to say, it emerges during the course of hearing, and more

particularly, from a perusal of the CIT(A)'s detailed discussion in para 5.1 page 8 that both the lower authorities never made any reference to the DVO u/s.50C(2) of the Act sofar as the difference between the actual sale price of Rs.18.00 lakhs *via-a-vis* the same valuation thereof amounting to Rs.44.10 lakhs, is concerned.

3. Learned departmental representative vehemently argued in light of the CIT(A)'s detailed discussion that the assessee had nowhere made any request regarding the issue of reference to the DVO for the purpose of valuation in order to determine the fair market value of its relevant capital asset. We find no merit in the Revenue's arguments in light of *PCIT Vs. Sunil Kumar Agrawal 372 ITR 83(Cal.)* holding that such a reference u/s.50C(2) of the Act is indeed mandatory in nature even if the assessee concerned does not raise such a please before the departmental authorities. We adopt the very reasoning to restore the assessee's instant sole substantive ground back to the Assessing Officer for his afresh appropriate adjudication in very terms. Ordered accordingly.

4. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open Court on 09th December, 2022.

Sd/-

(DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे Pune; दिनांक Dated : 09th December, 2022

Satish

Sd/-

(S.S. GODARA)
JUDICIAL MEMBER

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(Appeal)-2, Nagpur
4. The Pr. CIT-1/2/3, Nagpur
5. The DR, ITAT, Nagpur;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,**// True Copy //**

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

		Date	
1.	Draft dictated on	29-11-2022	Sr.PS
2.	Draft placed before author	06-12-2022	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.		