

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "A" : PUNE

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

ITA.No.1008/PUN./2018  
Assessment Year 2015-16

Mr. Shrikant Shridhar Khedekar, Flat No.407/108/409, Nisarga Vihar, Joshi Paland, Near Phatak High School, Ratnagiri – 415 612. PAN AINPK8729M	vs.	The Income Tax Officer, Ward-2, Ratnagiri.
(Appellant)		(Respondent)

For Assessee :	Shri Pramod S. Shingte
For Revenue :	Shri Keyur Patel, CIT-DR

Date of Hearing :	09.12.2022
Date of Pronouncement :	23.12.2022

**ORDER**

**PER SATBEER SINGH GODARA, J.M.**

This assessee's appeal for assessment year 2015-16, arises against the Pr. CIT-2, Kolhapur's order dated 27.03.2018, passed in case No.Pr.CIT-2/263/SSK/2017-18, involving proceedings under Section 143(3) of the Income Tax Act, 1961 (in short "the Act").

2. Heard both the parties. Case file perused.

3. We note at the outset that the relevant facts regarding the assessee's sole substantive ground challenging the correctness of the PCIT's revision directions herein terming the Assessing Officer's sec.143(3) regular assessment dated 18.12.2017 as an erroneous one causing prejudice to the interest of Revenue, are

indeed in a very narrow compass. Suffice to say, that the impugned revision directions hold that the Assessing Officer had not carried-out detailed enquiries, thereby, not invoking sec.56(2)(vii)(b) of the Act so far as the assessee's land purchase on 04.07.2014 are in issue.

4. Mr. Shingte vehemently argued during the course of hearing that this is first of all an instance of "limited scrutiny" only regarding the assessee's huge investments made in property purchased in the relevant previous year and, therefore, the Assessing Officer could not have even invoked sec.56(2)(vii)(b) in the given facts and circumstances. We find no merit in assessee's instant argument once it duly emerges from a perusal of Assessing Officer's detailed discussion in page-15 at para-3.1 that he had indeed taken-up the issue of applicability of sec.56 regarding the land purchased on 04.07.2014. It is further noted that the assessee had entered into the corresponding agreement on 21.09.2008 only not preceded by any payment made through the specified channel making him eligible for claiming benefit under 1<sup>st</sup> and 2<sup>nd</sup> proviso to the above statutory provision. The PCIT has rejected the assessee's corresponding arguments in para 2.3 of his order.

4.1. Mr. Shingte next argued that the assessee had in fact purchased only the development rights on the land thereby treating the same as stock-in-trade which bars application of sec.56(2)(vii)(b) even as per the Explanation thereunder. He has also filed the assessee's balance-sheet as on 31.03.2015 along with the

corresponding ledger account. We note that the assessee has not acquired development rights, but purchased land's title. We are afraid that taking note of such arguments at this stage, and more particularly, when the Assessing Officer or the PCIT have not even examined the same, would hardly give any benefit to the assessee for want of necessary factual verification which can only be made in the consequential proceedings. We thus affirm the learned PCIT's revision directions holding the impugned assessment as an erroneous one causing prejudice to the interest of Revenue for having accepted the assessee's submissions in view of sec.263 Explanation-2 as well as Malabar Industrial Company Ltd., vs., CIT [2000] 243 ITR 83 (SC) that such a failure on the assessing authority's part indeed attracts the prescribed authority's revision jurisdiction. We make it clear that it shall be very much open for the assessee to raise all factual and legal contentions before the Assessing Officer in consequential proceedings as per law. Ordered accordingly.

5. This assessee's appeal is dismissed in above terms.

Order pronounced in the open Court on 23.12.2022.

Sd/-  
[DR. DIPAK P. RIPOTE]  
ACCOUNTANT MEMBER

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 23<sup>rd</sup> December, 2022

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Ld. CIT(A) concerned.
4.	The CIT concerned
5.	D.R. ITAT, Pune "A" Bench, Pune
6.	Guard File.

//By Order//

Assistant Registrar, ITAT, Pune Benches,  
Pune.