आयकर अपीलीय अधिकरण न्यायपीठ नागपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL, NAGPUR BENCH : NAGPUR

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

आयकर अपीलसं. / ITA No.483/NAG/2016
निर्धारणवर्ष / Assessment Year : 2012-13

Jagdish Subharam Chitade, H.No.36, Godhani Bokhara, Dist. Nagpur. PAN: ASPPC 6752 Q	Vs.	The Assistant Commissioner of Income Tax, Circle-3, Nagpur.
Appellant/ Assessee		Respondent /Revenue

Assessee by	None.
Revenue by	Shri G.J.Ninawe – DR
Date of hearing	15/11/2022
Date of pronouncement	10/01/2023

आदेश/ ORDER

Per S.S.Godara, JM:

This assessee's appeal for Assessment Year 2012-13 is directed against the Commissioner of Income Tax(Appeal)-2, Nagpur's dated 09.05.2016 in case no.CIT(A)-2/111/2015-16, in proceedings u/s.143(3) of the Income Tax Act, 1961 [in short "the Act"].

Case called twice. None appears at assessee's behest. The very factual position continued on all the earlier actions of hearing(s) Assessing Officer, we thus proceed ex-parte against the assessee.

2. The assessee raised the following substantive grounds in the instant appeal:

"1) The CIT (A) ought to have seen that Agricultural land sold by Appellant, does not fall under the definition of Capital Assets as such not chargable under the head Income from Capital Gain.

2) The A.O. without any justification or valid reason has not taken value of the land at Rs. 2,22,453/- as valued by Appellant, rather illegally referred to Valuation Officer and valued the same at Rs. 12,649/-. The addition on this count deserves to be deleted.

3) The learned A.O. ought to have seen that deposit of Rs. 5,00,000/- by cash in Bank is out of sale consideration received by Appellant, which cannot be added as income, therefore, addition on this count deserves to be deleted.

5) For the above reasons and even otherwise, additions made are uncalled for and deserves to be deleted in toto."

3. Coming to the assessee's first and foremost substantive ground that both the lower authorities have erred in law and in facts in treating his land sold as a capital asset, we find from a perusal of the assessment discussion dated 25.03.2015 in para 3 page 2 he had himself declared long term capital gains of Rs.16,27,806/- followed by section 54B and section 54F deductions; as the case may be. There is also no material filed before the CIT(A) that the asset herein transferred at the assessee's behest was not a capital asset within the meaning of section 2(14) of the Act. We thus decline the assessee's instant former substantive ground.

4. The assessee's next substantive ground pleads that the Assessing Officer had erred in making reference to the DVO thereby ignoring his valuation of Rs.2,22,453/-. We note that that the DVO

determined the value in issue as Rs.12,649/- only which resulted in re-computation of the assessee's long term capital gains so far as the cost of acquisition of the asset in issue is concerned. We deem it appropriate to observe that the Assessing Office's detailed discussion in para 5 also had attributed the reason of reference to the DVO in view of the material coming from the taxpayer's side only. We also note that the assessee could not produce any cogent material disputing the DVO's valuation from 01.04.1981 onwards. Rejected accordingly.

5. The assessee's third substantive grievance challenging both the lower authorities treating his cash deposits of Rs.5 lakhs as unexplained also carries no merit as it emerged from a perusal of the CIT(A)'s detailed discussion in para 8.1 page 5 that he had not filed any explanation with supportive evidence regarding source thereto in the relevant previous year. The very factual position continues before us as well. We thus affirm this last addition of Rs.5 lakhs.

6. This assessee's appeal is dismissed.

Order pronounced in the open court on 10th January, 2023.

Sd/-	**Sd/-**
(DR.DIPAK P. RIPOTE)	**(S.S.GODARA)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 10th Jan, 2023/ *SGR**

आदेशकीप्रतिलिपिअग्रेषित / 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. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, नागपुर बेंच, नागपुर / DR, ITAT, Bench, Nagpur.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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