

**IN THE INCOME TAX APPELLATE TRIBUNAL,
PUNE BENCH "SMC", PUNE**

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.922/PUN/2022

निर्धारण वर्ष / Assessment Year : 2012-13

Anupama Ashok Kulkarni
33, Sopan Nagari,
323 Navi Peth, Pune – 411030

PAN: AQOPK0838N

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward 12(1), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Kishore Phadke
Revenue by : Shri Ganesh Rath, JCIT

सुनवाई की तारीख / Date of Hearing : 30-05-2023
घोषणा की तारीख / Date of Pronouncement : 30-05-2023

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of National Faceless Appeal Centre (NFAC), Delhi dated 19.10.2022 passed u/s 250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Briefly, the facts of the case are as under:

The appellant is an individual deriving income under the head 'Capital Gains'. No voluntary income under the provisions of section 139 of the Act was filed by the appellant. However, the Assessing Officer, Ward 12(1), Pune (hereinafter referred to as 'the AO') on receipt of information

that the appellant sold an immovable property during the previous year relevant to the year under consideration for a consideration of Rs.98,34,000/- issued a notice u/s 148 of the Act on 22.03.2019. In response to the said notice, the appellant filed return of income declaring income of Rs.1,62,680/-.

3. Against the said return of income, assessment was completed by the AO vide order dated 18.12.2019 passed u/s 143(3) r.w.s. 147 of the Act at a total income of Rs.12,57,204/-. While doing so, the AO adopted the sale consideration of the property sold at Rs.98,34,000/- as against the apparent consideration of Rs.25,15,000/- invoking the provisions of section 50C of the Act and accordingly computed the capital gains on the share of property and made addition of Rs.10,94,524/-. The appellant also objected the adoption of sale consideration of Rs.98,34,000/- and objected that the fair market value of the property does not exceed the apparent consideration and requested the AO to refer the matter to the DVO for determination of the fair market value. The AO had agreed to the request of the assessee to refer the matter to the DVO and since the DVO's report was awaited, the AO had proceeded with the assessment as the assessment was getting barred by the limitation.

4. Being aggrieved with the above order, an appeal was filed before the CIT(A). During the course of proceedings before the CIT(A), the DVO's report had been submitted. The appellant had objected to the method of valuation, adopted by the DVO before the CIT(A). The CIT(A) without considering the objections raised before him on the DVO's report had

merely confirmed the assessment order, which in my considered opinion is against the principles of natural justice. Accordingly, the matter is remanded to the file of CIT(A) with a direction that he should consider the objections raised by the appellant on the method of valuation adopted by the DVO.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 30th May, 2023.

Sd/-
INTURI RAMA RAO
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 30th May, 2023

GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The concerned Pr.CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "SMC" / DR
'SMC', ITAT, Pune;
5. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

//सत्यापित प्रति// True Copy//

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