

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.335/PUN/2023
निर्धारण वर्ष / Assessment Year : 2015-16

Mr. Karthik Venkataraman, 1101 Horizon Point, Neptune Living Point Reside, LBS Marg Bhandup (W), Mumbai- 400078. PAN : ACAPV6632R	Vs.	ITO, Ward-13(4), Pune.
Appellant		Respondent

Assessee by : Shri Rajesh Agrawal
Revenue by : Shri A. K. Mahala

Date of hearing : 03.08.2023
Date of pronouncement : 07.08.2023

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of the National Faceless Appeal Centre, Delhi ['NFAC'] dated 27.01.2023 for the assessment year 2015-16.

2. Briefly, the facts of the case are that the appellant is an individual. The appellant had filed the Return of Income for the assessment year 2015-16 disclosing total income of Rs.19,48,184/-. Against the said return of income, the assessment was completed by

the Income Tax Officer, Ward-13(4), Pune ('the Assessing Officer') vide order dated 13.12.2017 passed u/s 143(3) of the Income Tax Act, 1961 ('the Act') at a total income of Rs.39,31,890/-. While doing so, the Assessing Officer had brought to tax the capital gains arising on sale of immovable property on 16.10.2014 for sale consideration of Rs.68,00,000/-. During the course of assessment proceedings, the assessee had sought exemption of capital gains u/s 54 of the Act. The same came to be rejected by the Assessing Officer by holding that the appellant had entered into an agreement to purchase the property only on 23.06.2017 i.e. well beyond the time period of two years from the date of sale.

3. Being aggrieved, an appeal was filed before the NFAC, who vide impugned order confirmed the action of the Assessing Officer.

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

5. It is submitted before me that the assessee vide sale deed dated 27.06.2018 purchase new house property, namely, CASA VYOMA, Premises/Unit No.1101, 11th Floor, Block No.C. The details of payments for total consideration of the said new house property were mentioned at internal page no.13 of the agreement (page no.19

of the Paper Book). Thus, he submits that the amount involved for purchase of new property on or before the filing of the return of income should be granted exemption from the capital gains u/s 54 of the Act.

6. On the other hand, ld. CIT-DR supporting the orders of the lower authorities submits that no interference is called for.

7. I heard the rival submissions and perused the material on record. It is settled position of law that in order to claim exemption u/s 54, it is sufficient, if an assessee invests the sale proceed, the original assets in the purchase of new assets on or before due date for filing the return of income. From the material on record, it is clear that the assessee had invested certain amount in purchase of new housing property, namely, CASA VYOMA, Premises/Unit No.1101, 11th Floor, Block No.C., therefore, we direct the Assessing Officer to allow the proportionate exemption after due verification of the material on record. Accordingly, the matter is remitted to the file of the Assessing Officer with a direction to allow the exemption u/s 54 of the Act to the extent of amount invested in the new house property till the due date for filing of the return of income. Thus, the grounds of appeal filed by the assessee stand partly allowed.

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

Order pronounced on this 07th day of August, 2023.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 07th August, 2023.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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