

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.759/PUN/2023  
निर्धारण वर्ष / Assessment Year : 2011-12

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|---|-----|--------------------------------|
| Sandeep Anilkumar Surana,<br>152, Balaji Peth, Saraf<br>Bazar, Jalgaon- 425001.<br>PAN : BFIPS5350H | Vs. | ITO,<br>Jalgaon.<br>Ward-1(2), |
| Appellant   |     | Respondent                     |

Assessee by : Shri Hari Krishan  
Revenue by : Smt. Sonal Sonkavde

Date of hearing : 23.08.2023  
Date of pronouncement : 30.08.2023

**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 26.04.2023 for the assessment year 2011-12.

2. Briefly, the facts of the case are that the appellant is an individual deriving income under the head "salary" and "capital gains". The Return of Income for the assessment year 2011-12 was

filed on 29.07.2011 declaring total income of Rs.4,89,519/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-1(2), Jalgaon ('the Assessing Officer') vide order dated 05.09.2013 at a total income of Rs.5,50,170/- after making a disallowance of Rs.50,650/- under the head "capital gains". Subsequently, on receipt of the information that the co-owners of the property which was sold during the previous year relevant to the assessment year under consideration in respect of capital gains were offered to tax, had not claimed any expenditure and, therefore, Assessing Officer formed an opinion that income had escaped assessment to tax to the tune of Rs.90,850/- and reopened the assessment by issuing notice u/s 148 of the Act on 15.02.2016.

Against the said return of income, the assessment was completed by the Assessing Officer vide order dated 06.10.2016 passed u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 ('the Act') at a total income of Rs.6,47,020/- after making disallowance

of Rs.96,850/- while computing the income under the head “capital gains”.

3. Being aggrieved by the above assessment order, 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. I heard the rival submissions and perused the material on record. The issue in the present appeal towards challenging the very validity of the re-assessment proceedings as well as the disallowance of Rs.96,850/- on merits. In my considered opinion, that the re-assessment proceedings initiated by the Assessing Officer are valid in law, inasmuch as, the information received by the Assessing Officer that the co-owners of the property which was sold during the previous year relevant to the assessment year under consideration, in respect of which the capital gains arising on sale of such property were offered to tax constituted an information enabling the Assessing Officer to form an opinion that the income

escaped assessment to tax. On merits of the issue, there is no material to disbelieve that the expenses incurred on account of development of the flat sold is genuine. Therefore, the Assessing Officer was not justified in making the addition of Rs.90,850/- as well. Thus, the grounds of appeal filed by the assessee stand partly allowed.

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

Order pronounced on this 30<sup>th</sup> day of August, 2023.

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 30<sup>th</sup> 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.