

IN THE INCOME TAX APPELLATE TRIBUNAL
SMC BENCH, PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. /ITA No.1163/PUN/2023

निर्धारण वर्ष / Assessment Year : 2010-11

Jeetendra Ramchand Samtani, C/o. Mohan Ambadas Dodani, Flat No.A-11, Parmar Paradise, 9, B.J. Road, Sadhu Vaswani Chowk, Pune 411 001, Maharashtra PAN : BGTPS8961C	Vs.	ITO (IT), Ward-4, Pune
Appellant		Respondent

Assessee by Shri P.D. Kudwa
Revenue by Shri Sourabh Nayak

Date of hearing 04-12-2023
Date of pronouncement 04-12-2023

आदेश / ORDER

PER R.S. SYAL, VP:

This appeal by the assessee arises out of the *ex parte* order dated 04-12-2019 passed by the Id. CIT(A)-13, Pune in respect of the assessment order notified u/s.147 r.w.s. 144 of the Income-tax Act, 1961 (hereinafter also called 'the Act') in relation to the assessment year 2010-11.

2. Tersely, the facts of the case are that the assessee is a Non-resident who filed e-return declaring total income at Rs.14,23,430/-. During the year under consideration, the assessee along with his wife (co-owner), sold a flat by the name of Panchsheel Heights for a total

consideration of Rs.32,77,500/- and claimed exemption u/s.54. The AO disallowed the said claim and made addition on account of short term capital gain thereby determining total income at Rs.37,75,230/-. The Id. CIT(A) also dismissed the appeal by means of an *ex parte* order. Aggrieved thereby, the assessee has approached the Tribunal.

3. I have heard both the sides and gone through relevant material on record. The Id. AR submitted that the assessee could not be represented before the Id. CIT(A) because the registered mail ID was of the Chartered Accountant, who could not attend the proceedings because of illness in the family. He also submitted that the appeal in the case of his wife, Ms.Nita Ramchand Samtani, other co-owner of the same property, came up for hearing before the Tribunal in ITA No.187/PUN/2023, in which the matter has been remitted to the file of the Id. CIT(A) for a fresh determination. A copy of the order dt. 23-03-2023 has been placed on record. In view of the facts obtaining in the instant case and considering the request made on behalf of the assessee, I am of the opinion that it would be just and fair if the impugned order is set-aside and the matter is remitted to the file of the Id. CIT(A) with a direction to decide the matter afresh as per law after allowing a reasonable opportunity of hearing to the assessee.

I order accordingly. Needless to say, the assessee will be at liberty to lead any fresh evidence in support of his case.

4. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the Open Court on 04th December, 2023.

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 04th December, 2023
Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(IT/TP), Pune
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,
SMC, Pune / DR, ITAT, Pune
5. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,

// True Copy //

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

		Date	
1.	Draft dictated on	04-12-2023	Sr.PS
2.	Draft placed before author	04-12-2023	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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