

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE "SMC" BENCH : PUNE [VIRTUAL HEARING]

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.124/PUN./2024
Assessment Year 2011-2012

Dnyanoba Tippiana Pathrut, 4075/95 Near Jain Mandir, Pandharpur – 413 304 Maharashtra. PAN BOLPP0336N	vs.	The Income Tax Officer, Ward – 2(2), Income Tax Office, Solapur, SH-76, Atpadi Pandharpur Road, Pandharpur, 3488, Gopalpur Rd, Bhosale Nagar, Pandharpur. PIN – 413 304. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Pramod S Shingte
For Revenue :	Shri B.S. Rajpurohit

Date of Hearing :	28.02.2024
Date of Pronouncement :	28.02.2024

ORDER

PER SATBEER SINGH GODARA, J.M. :

This assessee's appeal for assessment year 2011-12, arises against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1053673156(1), dated 13.06.2023, involving proceedings u/s. 143(3) r.w.s.147 of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties at length. Case file perused.

2. During the course of hearing, the learned counsel representing the assessee submitted that the Assessing Officer had made impugned addition of Rs.28,41,280/- as long term capital gains in the hands of the assessee by disregarding the fact that the said land was agricultural land and is not included in definition of "capital asset" u/sec.2(14). He submitted that the order of the

Assessing Officer was confirmed by the NFAC without affording proper opportunity to the assessee. He submitted that one more opportunity be given to the assessee to submit his grievance(s) before the first appellate authority. The Learned DR is equally fair enough in not objecting the aforesaid submissions of the assessee.

3. I have considered the rival submissions and perused the material on record. The clinching fact is that the Assessing Officer had made the impugned addition of Rs.28,41,280/- as long term capital gains and the NFAC had confirmed the same without affording proper opportunity to the assessee, thereby, the NFAC not complied with the provisions of sec.250(6) of the Act requiring it to give points for determination followed by a detailed discussion thereof. Faced with the situation, I deem it appropriate in the larger interest of justice to restore the assessee's instant appeal back to the NFAC for its afresh adjudication, preferably within three effective opportunities of hearing, subject to the rider that it shall be the taxpayer's onus and responsibility only to file and prove all the relevant facts in consequential proceedings. Ordered accordingly.

4. These assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open Court on 28.02.2024.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 28th February, 2024
VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The NFAC, Delhi.
4.	The Pr. CIT, Pune concerned
5.	D.R. ITAT, "SMC" Bench, Pune.
6.	Guard File.

//By Order//

//True Copy //

Assistant Registrar, ITAT, Pune Benches,
Pune.