

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE "SMC" BENCH : PUNE [VIRTUAL HEARING]  
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
I.T.A.No.229/PUN./2024  
Assessment Year 2013-2014

Mr. Mahadev Gundu More, A/P Kadgaon, Tal Gadhinglaj – 416 502 Maharashtra. PAN ABUPM2935K (Appellant)	vs.	The Income Tax Officer, 1548-Shanti Niwas Bombay-Konkan-Goa-Highway, Kudal – 416 003. Maharashtra. (Respondent)
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For Assessee :	-None-
For Revenue :	Shri Manish Mehta

Date of Hearing :	18.03.2024
Date of Pronouncement :	19.03.2024

**ORDER**

**PER SATBEER SINGH GODARA, J.M. :**

This assessee's appeal for assessment year 2013-14, arises against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No.ITBA/NFAC/S/250/2023-24/1050819343(1), dated 16.03.2023, involving proceedings u/s.147 of the Income Tax Act, 1961 (in short "the Act").

Case called twice. None appears at assessee's behest. He is accordingly proceeded ex-parte.

2. The assessee pleads the following substantive grounds in the instant appeal :

1. *"On the facts and in the circumstances of the case and in law, the Ld. CIT (A) is not justified in dismissing the appeal solely on the ground of non-prosecution of appeal.*

2. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) is not justified in confirming addition on account of sale proceeds Rs.30,00,000/- treating the entire amount as Short Term Capital Gain.*
3. *On the facts and in the circumstances of the case and in law, the land sold is Rural agricultural land and share of assessee in proceeds are Rs.19,00,000/- only hence the sale proceeds received be held as exempt from tax.*
4. *The appellant craves, to consider each of the above grounds of appeal without prejudice to each other and craves leave to add, alter, delete or modify all or any of the above grounds of appeal.”*

3. It emerges during the course of hearing with the able assistance coming from the Revenue side that both the learned lower authorities have added the impugned capital gains of so-called in assessee's hands without giving a clear-cut finding that the latter had transferred a "capital asset" within the meaning of sec.2(14) of the Act. And that too without determining the cost of acquisition thereof as well. Faced with this situation, I deem it appropriate in the larger interest of justice to restore the assessee's instant appeal back to the Assessing Officer for his 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.

5. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open Court on 19.03.2024.

Sd/  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 19<sup>th</sup> March, 2024

VBP/-

Copy to

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

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,  
Pune.