

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE “SMC” BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.338/PUN./2024  
Assessment Year 2012-2013

Shri Rajabhau Laxmanrao Gajre, Samrat Niwas, Sonal Nagar, Railway Station Road, JALNA – 431 203. Maharashtra. PAN AQJPG1994L	vs.	The Income Tax Officer, Ward – 1, JALNA – 431 203 Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri M.R. Mohan Rao
For Revenue :	Shri Manish Mehta

Date of Hearing :	22.03.2024
Date of Pronouncement :	02.05.2024

**ORDER**

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

This assessee’s appeal for assessment year 2012-13, arises against the National Faceless Appeal Centre [in short the “NFAC”] Delhi’s Din and Order No. ITBA/NFAC/S/250/2023-24/1059112725(1), dated 27.12.2023, involving proceedings u/s. 143(3) of the Income Tax Act, 1961 (in short “the Act”).

Heard both the parties. Case file perused.

2. It emerges at the outset with the able assistance coming from both the parties that the assessee’s sole substantive ground challenges the learned lower authorities action assessing the alleged undisclosed long term capital gains of Rs.14,70,500/- derived from sale/transfer of the relevant capital asset.

3. It transpires that the assessee was co-owner of the relevant capital asset to the extent of 1/5<sup>th</sup> share. The same was sold/transferred in the relevant previous year for Rs.55,20,000/-. The learned Assessing Officer appears to have assessed the foregoing entire sale consideration in assessee's hands despite the fact that his share was 1/5<sup>th</sup> only. This is further coupled with the fact that the learned Assessing Officer's detailed discussion, more particularly, in para-2, has invoked sec.50C of the Act which is applicable only when there is a difference between the actual sale price vis-à-vis the stamp value of the capital asset sold/transferred; as the case may be.

4. Learned DR could hardly rebut the clinching fact that there is no difference in the actual sale price as well as the stamp value as both indicate the very figure of Rs.55,20,000/- only. I conclude in these facts that learned lower authorities have erred in law and on facts in assessing the impugned capital gains u/sec.50C of the Act in very terms. Ordered accordingly.

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

Order pronounced in the open Court on 02.05.2024.

Sd/  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 02<sup>nd</sup> May, 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.