

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE "SMC" BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.1448/PUN./2023 [E-APPEAL]

Assessment Year 2012-2013

Shri Sachin Prakash Valse, Sachin Die Centre, Saraf Lane, Gunj Golai. PIN 413 512. Maharashtra. PAN ACWPV9651Q	vs.	The Income Tax Officer, Ward-1, Khadgaon, LATUR – 413 512. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri Shashank Deogadkar

Date of Hearing :	26.03.2024
Date of Pronouncement :	14.05.2024

ORDER

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/250/2023-24/1053783369(1), dated 19.06.2023, in proceedings u/s.147 r.w.s.144 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. It emerges during the course of hearing that both the learned lower authorities have made the long term capital gains addition of Rs.51 lakhs in the course of assessment dated 27.12.2018 as upheld in NFAC's lower appellate

discussion. Suffice to say, there is no denial of the clinching fact *inter alia* making it clear that this is assessment year 2012-13 wherein the assessee had filed his return on 23.03.2013 followed by sec.143(1) intimation dated 31.12.2013 and regular assessment framed on 11.12.2017. Learned Assessing Officer thereafter issued sec.148 notice dated 31.03.2018 very well beyond the statutory period of four years from the end of relevant assessment year without even indicating that this taxpayer had not “fully” and “truly” disclosed his particulars in the former round. This is indeed coupled with the fact that the impugned addition is based on an alleged Tharav Patra dated NIL with stamp paper purchased on 21.12.2011 on the basis of which the learned lower authorities have added the cash payment to the seller Shri Vithal Nagnath Gurme. It is further clear in this factual backdrop that when the assessee is alleged to have made payments of Rs.51 lakhs; as an investor; the learned Assessing Officer went on to add long term capital gains rather than invoking sec.69 of the Act. Be that as it may, there is no denial from the Revenue side that Assessing Officer’s impugned reopening reasons had not complied with the corresponding statutory requirements u/sec.147 first proviso as well.

3. Faced with this situation, I hereby conclude that the assessee's instant appeal deserves to succeed both on the foregoing legal issue as well as on merits in very terms. Ordered accordingly.

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

Order pronounced in the open Court on 14.05.2024.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 14th 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.