

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE "SMC" BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.394/PUN./2024 [E-APPEAL]

Assessment Year 2011-2012

Mr. Bharat Jalandar Patole, 841, E-Ward, New Palace Road, Patole Mala, KOLHAPUR - 416 003. Maharashtra. PAN AOFPP0474E	vs.	The Income Tax Officer, Ward-2(3), Indumati Road, Tarabai Park, KOLHAPUR. Maharashtra. PIN - 416 003.
(Appellant)		(Respondent)

For Assessee :	Shri Pramod S. Shingte
For Revenue :	Shri Manish Mehta

Date of Hearing :	22.03.2024
Date of Pronouncement :	15.05.2024

ORDER

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/250/2023-24/1061124934(1), dated 19.02.2024, involving proceedings u/s.147 r.w.s.144 of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. It emerges at the outset that the assessee's instant appeal raises first and foremost legal issue of applicability of Sec.55(a) amendment/substituted by way of Finance Act, 2012 w.e.f. 01.07.2012 that value of a capital asset claimed "is at variance with its fair market value". It is in this statutory

backdrop the assessee's instant appeal and pleadings herein make it evident that his registered valuer's report had claimed cost of acquisition as on 01.04.1981 @ Rs.240/- per sq. feet as reduced by the DVO's valuation report to Rs.15/- per sq. metre. It is indeed very much relevant to pinpoint here that the earlier legislative expression used in sec.55A(a) would be applicable in case the FMV "*is less than its fair value*" up to 01.07.2012 before the foregoing amendment. That being the case, this tribunal is of the considered view that both the learned lower authorities have erred in law and on facts in going by the DVO's report not having considered the earlier statutory provision in above terms. Case law Pooja Prints (2014) 360 ITR 697 (Bom.) has already settled the issue in assessee's favour and against the department that the foregoing statutory amendment does not carry any retrospective effect. I accordingly accept the assessee's foregoing sole substantive ground in very terms. Ordered accordingly.

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

Order pronounced in the open Court on 15.05.2024.

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.