

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE "A" BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

I.T.A.No.574/PUN./2024  
Assessment Year 2017-2018

Shri Eknath Dhondiba Kurade, 691, Narayan Peth, Laxmi Road, PUNE. PIN – 411 030. PAN ABXPK0830A Maharashtra.	vs.	The Assistant Commissioner of Income Tax, Circle-12, 309, 3 <sup>rd</sup> Floor, Aaykar Sadhan, Bodhi Towers, Salisbury Park, Gultekdi, PUNE – 411 037. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Pratik Sandbhor
For Revenue :	Shri Arvind Desai

Date of Hearing :	12.06.2024
Date of Pronouncement :	19.06.2024

**ORDER**

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

This assessee's appeal for assessment year 2017-2018, arise against the Addl./JCIT-(A)-2, Coimbatore's Din and Order No.ITBA/APL/S/250/2023-24/1060142340 (1), dated 25.01.2024, in proceedings u/s.143(3) of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties at length. Case file perused.

2. It emerges at the outset with the able assistance coming from both the parties that the assessee's sole substantive grievance canvassed in the instant appeal challenges correctness of the learned lower authorities action

making sec.43CA addition of Rs.7,42,858/- representing difference between actual sale price and stamp price of the corresponding residential units forming part of the stock-in-trade, sold/transferred in the relevant previous year.

3. The Revenue could hardly dispute that the learned Assessing Officer's impugned discussion in paragraphs 5 to 5.8 has itself prepared a chart of assessee's corresponding residential units sold/transferred in the relevant previous year. The assessee has also filed the corresponding chart at page-41 of his paper book whose details have nowhere been called in question at the Revenue's behest. A perusal of this clinching chart reveals that in none of the 13 residential units in question; the price difference between actual one vis-à-vis the stamp valuation nowhere exceeded 10% going by sec.43CA(1) first proviso of the Act.

4. Learned DR vehemently argued that this tolerance margin of 10% has substituted the earlier 5% range by the Finance Act, 2020 w.e.f. 01.04.2021 which carries only prospective effect.

5. We find no merit in the Revenue's instant arguments in light of this tribunal's decision in C. Maria Fernandes vs. ITO [2021] 187 ITD 738 (Mum.) having rejected the very stand in sec.50C addition which is indeed *para materia* to sec.43CA of the Act since the only difference is that

the former gets invoked in case of capital asset whereas sec.43CA is attracted when the corresponding asset forms part of the stock-in-trade. We thus reject the Revenue's vehement arguments in very terms to delete the impugned addition of Rs.7,42,858/- in very terms.

No other ground or argument has been pressed before us.

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

Order pronounced in the open Court on 19.06.2024.

Sd/-  
[DR. DIPAK P. RIPOTE]  
ACCOUNTANT MEMBER

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

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

VBP/-

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1.	The appellant
2.	The respondent
3.	The Addl./JCIT(A)-2, Coimbatore
4.	The Pr. CIT, Pune concerned
5.	D.R. ITAT, "A" Bench, Pune.
6.	Guard File.

//By Order//

//True Copy //

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