

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B", MUMBAI**

**BEFORE JUSTICE (RETD.) C.V. BHADANG, PRESIDENT AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

ITA NO. 6981/MUM/2024 : A.Y. : 2013-14

Bhimabai Ramkrishna Gharat Vs. National Faceless Assessment
Radha Niwas, At Kavesar, Centre, Delhi. (Respondent)
Ghodbunder Road, Waghbil Naka,
Thane (W), Maharashtra 400 607.
PAN : BFZPF8205C (Appellant)

**Appellant by : Shri Nilesh Kariya
Respondent by : Ms. Monika H. Pande**

**Date of Hearing : 12/02/2025
Date of Pronouncement : 12/02/2025**

ORDER

PER JUSTICE (RETD.) C.V. BHADANG, PRESIDENT :

By this appeal the appellant-assessee is challenging the order dated 28.10.2024 passed by NFAC, Delhi, which in turn arose out of assessment order dated 17.12.2018 by the Income Tax Officer, Ward - 1(1)-Thane ('AO' for short). The appeal pertains to assessment year 2013-14.

2. We have heard parties. Perused record.

3. The appellant is a non-filer for the relevant assessment year. The AO had information that during the year under consideration, appellant alongwith other co-owners had executed two registered Conveyance Deeds dated 06.07.2012 in respect of

landed property at Village Kolshet, District Thane in which the appellant and other co-owners had equal shares. The details of Conveyance Deeds are as under :-

<i>Details of land sold</i>	<i>Market value as per Stamp Valuation Authority as on the date of registration</i>	<i>Assessee's 1/5 share out of the same</i>
<i>Survey No. 171, 171/5, 175/6, 188/1, 189/6, 191/4, 280/3, Mauje Kolshet Thane land admeasuring 10260 sq. mtrs.</i>	<i>Rs. 12,53,83,500/-</i>	<i>Rs. 2,50,76,700/-</i>
<i>Survey No. 216, 216/2, Mauje Kolshet Thane land admeasuring 4080 sq. mtrs.</i>	<i>Rs. 3,36,57,600/-</i>	<i>Rs. 67,31,520/-</i>
	<i>Total</i>	<i>Rs. 3,18,08,220/-</i>

4. On the basis of the information received, the AO issued a notice under Section 148 of the Income Tax Act, 1961 ('Act' for short) to the appellant on 23.03.2018 followed by a notice under Section 142(1) issued on 02.07.2018. The appellant did not respond to these notices, as a result of which two show cause notices were issued on 05.11.2018 and 16.11.2018 and the appellant was asked to submit the cost of acquisition of the immovable property which was the subject matter of sale for working out the Long Term Capital Gains (LTCG). The appellant did not respond. Hence, a final show cause notice was issued on 23.11.2018 in pursuance to which the appellant appeared and contended that the entire sale consideration cannot be adopted as per stamp duty authority and requested for reference being made to the Departmental Valuation Officer (DVO). In short, appellant objected to the recourse being taken to Section 50C of the said Act. The record discloses that the AO did make a reference to the DVO on 06.12.2018, however proceeded to complete the assessment by working out LTCG of Rs.3,18,08,220/- being treated as income of the appellant.

5. In appeal, the learned CIT(A) has noticed that at the request of the appellant the issue about determination of market value was referred to DVO, whose report was awaited. The Remand Report was also called for from the AO, which was not received till the date of decision of the appeal. The learned CIT(A) has ultimately found that in the interest of justice the Assessing Officer is required to call for details of cost of acquisition from the appellant and to ascertain the status of the Valuation Report from the DVO and then give effect to the same by amending the assessment order.

6. Normally, the order being partly in favour of the appellant, the appellant had no reason to challenge the same. However, what is now contended is that the appeals filed by Amar Ramkrishna Gharat and Ravi Ramkrishna Gharat who are co-owners with the present appellant and have sold the property are restored to the file of the learned CIT(A) by common order dated 20.08.2024 in ITA No. 3400 & 3401/Mum/2024 (assessment year 2013-14). The learned counsel for the appellant further pointed out that there are also issues about the application of provisions of Section 50C of the Act and whether the relinquishment of the right amounts to transfer of land within the meaning of the relevant provisions which have not been considered by the learned CIT(A). He submitted that identical issues about valuation of land and indexed cost of acquisition (which go to the root of the matter) would arise in the appeals filed by Amar Ramkrishna Gharat and Ravi Ramkrishna Gharat. He, therefore, submitted that the appeal be restored to the file of CIT(A) for disposal alongwith the connected appeals filed by the co-owners.

7. The learned DR has submitted that appropriate orders be passed in the wake of the two appeals by the co-owners being restored to the file of the learned CIT(A).

8. We have carefully considered the circumstances and the submissions made. Normally, we would have been slow in interfering with the impugned order passed by the learned CIT(A) by which the learned CIT(A) has remitted the matter back to the file

of the Assessing Officer. However, in the peculiar facts of this case, we find that under two conveyance deeds dated 06.07.2012 the present appellant and the other co-owners have sold the property. We find that identical issue about the cost of acquisition/valuation of land would arise in all the appeals by the present appellant and the co-owners against whom also there is a similar addition made. Thus, only on account of the fact that the appeals filed by the other co-owners have been restored to the file of learned CIT(A), we find that it would be appropriate that the learned CIT(A) decides the appeal filed by the present appellant alongwith those of the co-owners, viz. Amar Ramkrishna Gharat and Ravi Ramkrishna Gharat. In that view of the matter, the appeal is allowed. The appeal filed by the appellant is restored to the file of the learned CIT(A) to be decided alongwith the connected appeals filed by other co-owners, Amar Ramkrishna Gharat and Ravi Ramkrishna Gharat. Ordered accordingly.

Order pronounced in the open court on 12/02/2025.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(JUSTICE (RETD.) C.V. BHADANG)
PRESIDENT

Mumbai; Dated : 12/02/2025

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Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(Judicial)
4. PCIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai