IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, MUMBAI

BEFORE SHRI D. KARUNAKARA RAO, ACCOUNTANT MEMBER

ITA No.3115/M/2015 (AY 2010-2011)

Cedric Dsouza, 14B, Nootan Nagar Turner Rd, Bandra West, Mumbai – 400050.	बनाम/ Vs.	ITO-19(3)(1), Matru Mandir, Mumbai.
स्थायी लेखा सं./PAN : AAEPD4057G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by :	Shri Vijay Mehta
प्रत्यर्थी की ओर से/ Respondent by :	Mrs. Beena Santosh

सुनवाई की तारीख /Date of Hearing : 10.04.2017

घोषणा की तारीख /Date of Pronouncement : 26.04.2017

आदेश / O R D E R

PER D. KARUNAKARA RAO, AM:

This appeal filed by the assessee on 22.5.2015 is against the order of the CIT (A)-32, Mumbai dated 2.3.2016 for the assessment year 2010-2011. In this appeal assessee raised the following grounds which read as under:-

"1. The Authorities below erred in restricting the exemption u/s 54 of the Income Tax Act, 1961.

2. The Authorities below erred in computing the capital gains."

2. Briefly stated relevant facts of the case are that the assessee owns a flat at Pali Hills in Somerset CHS and the same was sold for a sum of Rs. 2.25 Crs on 6.10.2009. Assessee is a 50% shareholder in the said flat and the other 50% is owned by his mother Mrs. Marie Khalkdina. Assessee invested the gains in a flat. There is a confusion in the mind of the AO regarding the details of the new asset and the extent of ownership of the said new asset.

3. During the proceedings before the Tribunal, Ld AR brought my notice certain mistakes committed by the assessee with regard to the value of the asset. Ld AR submitted that a new flat was purchased by the assessee jointly with his mother for Rs. 69,94,140/- against the correct sum of Rs. 90 lakhs. Similarly, Assessing Officer also committed certain errors with regard to the details of new asset. Otherwise,

assessee owns two flats in Natalia CHS, on which assessee has 100% ownership. Further, assessee also owned a flat in Pune at Gare Properties Realty. Considering the errors crept into these orders from both the assets, Ld Representatives of both the parties submitted that the matter should revisit the file of the AO for appreciating the said mistake and making correct computation of deduction u/s 54 of the Act. I find merit in the said proposition and proceed to remand the ground no.1 to the file of the AO. I order accordingly. AO shall grant a reasonable opportunity of being heard to the assessee as per the set principles of natural justice.

4. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 26th April, 2017.

Sd/-

(D. KARUNAKARA RAO)
ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक 26.04.2017
व.नि.स./ *OKK* , Sr. PS

<u>आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to</u> :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,
उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई **/ ITAT, Mumbai**