आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

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

आयकरअपीलसं. / ITA No.36/PUN/2021
निर्धारणवर्ष / Assessment Year : 2014-15

Dnyaneshwar Maruti Gaikwad, B-110, Salunke Vihar Road, Oxford Village, Pune. PAN: ADTPG 0777 A	Vs.	The Income Tax Officer, Ward-14(3), Pune.
Appellant/ Assessee		Respondent /Revenue

Assessee by	None.
Revenue by	Shri S P Walimbe – DR
Date of hearing	24/06/2022
Date of pronouncement	19/07/2022

आदेश/ ORDER

Per S.S.Godara, JM:

This assessee's appeal for A.Y.2014-15 is directed against the Commissioner of Income Tax(Appeals)-7, Pune's order dated 21.02.2020 passed in case no.PN/CIT(A)-7/Wd-14(3)/10887/2016-17, in proceedings u/s.143(3) of the Income Tax Act, in short "the Act".

Case called twice. None appeared at assessee's behest. It is accordingly proceeded ex-parte.

2. Coming to the assessee's sole substantial grievance challenging correctness of section 56(2)(vii)(b) of the Act, addition of Rs.3,00,200/-, we note at the outset that the same has arisen on account of difference between actual and stamp price of the "asset"

in issue involving figures of Rs.1,00,00,000/- and Rs.1,06,00,400/- ; coming to Rs.6,00,400/- ; resulting in the impugned addition of Rs.3,00,200/- [to the extent of 50% share] in his hands.

3. Mr.Walilmbe could not hardly dispute the clinching fact that the impugned statutory provision i.e.section 56(2)(vii)(b) is indeed pari materia to sec 50C of the Act, wherein the Fair Market Value is determined after making statutory reference to the DVO. The legislature has also adopted sec 50C(2) in sec 56(2)(vii) 3rd proviso as well which again forms subject matter of relief of tolerance margin to the extent of 5% and 10% ; in light of third proviso as per amendment by Finance Act 2018 w.e.f. 01.04.2019 followed by its substitution w.e.f. 01.04.2021, respectively.

4. Mr.Walimbe vehemently argued that the foregoing latter tolerance margin of 10% in sec 50C, applies w.e.f 01.04.2021 whereas we are in A.Y.2014-15 only. He sought to buttress the point the foregoing tolerance margin does not carry any retrospective effect. We find no merit in the Revenue's arguments in in light of [2021] 123 taxmann.com 252 (Mum Trib) Maria Fernandes Cheryl Vs. ITO holding the foregoing proviso to be carrying retrospective effect being curative in nature. We thus, delete the impugned the section 56(2)(vii)(b) of the Act since statutory tolerance margin of 10% in very terms.

4.1 Delay of 291 days is condoned since falling in Covid-19 Pandemic Outbreak period.

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

Order pronounced in the open Court on 19th July, 2022.

Sd/-	**Sd/-**
(DR. DIPAK P. RIPOTE	**(S.S.GODARA)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 19th July, 2022/ *SGR**

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकरअपीलीयअधिकरण, पुणे/ITAT, Pune.