

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH, 'A' PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI S.S.VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2096/PUN/2017
निर्धारण वर्ष / Assessment Year : 2014-15

ACIT, Circle-1, Aurangabad	Vs.	M/s. Badve Engineering Ltd., P.No.D-39, MIDC, Waluj, Aurangabad – 431 136 PAN : AAACB9378F
Appellant		Respondent

Assessee by Shri Nikhil S. Pathak
Revenue by Shri S.P. Walimbe
Date of hearing 21-10-2021
Date of pronouncement 21-10-2021

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the Revenue is directed against the order passed by the CIT(A)-1, Aurangabad on 23-06-2017 in relation to the assessment year 2014-15.

2. Briefly stated, the facts of the case are that the assessee company is engaged in the business of manufacturing of automobile press components and wind mill generation. In the return filed for the year under consideration, the assessee declared long term capital gain of Rs.2,84,77,186/-. The Assessing Officer (AO) during the course of assessment proceedings observed that the assessee sold two leasehold lands situated at Plot No.C-5-2, Shendra MIDC, Dist.

Aurangabad and Ranjangaon, Dist. Aurangabad for a consideration of Rs.6.95 crore and Rs.5.50 crore respectively on 03-03-2014 to Shreepriya Auto Parts Pvt. Ltd. There is no dispute as regards the capital gain arising from Ranjangaon land which was transferred at a consideration higher than the stamp value. The only issue in this appeal is about the capital gain declared by the assessee from sale of land situated at Shendra MIDC, Dist. Aurangabad. The AO observed that while computing the capital gain, the assessee did not take stamp value of the land and only the full value of consideration received was considered. Invoking the provisions of section 50C of the Act, the AO computed the additional amount of capital gain chargeable to tax at Rs.5,81,60,000/-. The Id. CIT(A), relying on the judgment of Hon'ble Bombay High Court in *CIT Vs. Greenfield Hotels & Estates (P) Ltd. (2017) 77 taxmann.com 308 (Bombay)*, allowed the assessee's contention. The Revenue has come up in appeal against the decision of the Id. CIT(A).

3. We have heard both the sides and gone through the relevant material on record. The core of controversy is as to whether section 50C is applicable in respect of leasehold land transferred by the assessee. The assessee acquired right in the leasehold land from Maharashtra Industrial Development Corporation on 10-01-2006 for

a consideration of Rs.17.10 lakh. A copy of the Lease agreement has been placed at page 7 of the paper book, which indicates that the assessee was initially conferred with 5 years lease to enter upon the land and execute construction thereon. Thereafter, the lease on the land was to continue. On 03-03-2014, the assessee entered into an agreement with Shreepriya Auto Parts Pvt. Ltd. for transfer of the leasehold right in the land along with building constructed thereon. Before transferring such leasehold right, the assessee was required to take permission from MIDC, which it obtained. Pursuant to such permission, the assessee executed Deed of Assignment under which the leasehold land along with building constructed thereon was transferred. While determining the amount of capital gain on the transfer of the land, the assessee separately took the amount of full value of consideration of land. The AO opined that section 50C governs the situation and hence stamp value ought to have been considered as full value of consideration. He, therefore, substituted the full value of consideration with the stamp value and accordingly made the addition. The moot question which obtains before the Tribunal is as to whether section 50C is attracted on the transfer of a leasehold land. This issue is no more *res integra* view of the judgment of Hon'ble jurisdictional High Court in the case of

Greenfield Hotels & Estates (P) Ltd. (supra) in which it has been held that section 50C cannot be applied while computing capital gain on transfer of leasehold rights in land. Since the facts of the instant case are fully governed by the judgment of the Hon'ble jurisdictional High Court in the case of *Greenfield Hotels & Estates (P) Ltd. (supra)*, we see no reason to interfere with the impugned order, which laid down that section 50C does not apply on the transfer of rights in leasehold land. We, therefore, countenance the view taken by the Id. CIT(A).

4. In the result, the appeal is dismissed.

Order pronounced in the Open Court on 21st October, 2021.

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 21st October, 2021
सतीश

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-1, Aurangabad
4. The PCIT-1, Aurangabad
5. DR, ITAT, 'A' Bench, Pune
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	21-10-2021	Sr.PS
2.	Draft placed before author	21-10-2021	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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