

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "B", PUNE – VIRTUAL COURT

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

ITA No.1729/PUN/2018

निर्धारण वर्ष / Assessment Year : 2014-15

Bhagwan Keshu Sakhare, S.No.1/9, Swaroop Niwas, At Post Hinjewadi, Taluka Mulshi, Pune – 411 057 PAN : ARMPS3409E	Vs.	ITO, Ward-2(4), Pune
Appellant		Respondent

Assessee by Shri S.N. Puranik  
Revenue by Shri Deepak Garg

Date of hearing 01-07-2020  
Date of pronouncement 01-07-2020

आदेश / ORDER

**PER R.S.SYAL, VP :**

This appeal by the assessee is directed against the order passed by the CIT u/s. 263 of the Income-tax Act, 1961 (hereinafter also called 'the Act') on 30-07-2018 in relation to the assessment year 2014-15.

2. This appeal is time barred by 5 days. The assessee has filed a letter dated 02-11-2018 stating the reasons which led to the late filing of the appeal. We are satisfied with such reasons. The delay is condoned and the appeal is admitted for hearing on merits.

3. The only issue raised in this appeal is against denial of exemption u/s 54B of the Act on a sum of Rs.35.00 lac. Briefly stated, the facts of the case are that the assessee is an individual, whose case was selected for limited scrutiny under CASS for the reason of “*Deduction claimed under the head capital gains*”. After claiming deduction for indexed cost of acquisition and transfer expenses, the assessee computed long term capital gain at Rs.80.84 lakhs. The assessee claimed exemption u/s.54B, *inter alia*, for a sum of Rs.45.00 lakhs towards a property. The assessment was completed allowing exemption u/s.54B, *inter alia*, in respect of the above Rs.45.00 lakhs. Exercising power u/s.263 of the Act, the Id. CIT observed that as against exemption of Rs.45.00 lakhs, a sum of Rs.35.00 lakhs was neither deposited in the Capital Gain Deposit Account scheme before the stipulated date nor another property was purchased before the prescribed date. A show cause notice was issued for which the assessee sought adjournment, which was duly granted. On the next date also, the assessee failed to put in appearance, as a result of which, the Id. CIT set-aside the assessment order directing the Assessing Officer to verify the claim of the assessee made u/s.54B of the Act

amounting to Rs.35.00 lakhs. The assessee is aggrieved by such an order.

4. We have heard the rival submissions through virtual hearing and gone through the relevant material on record. The ld. AR fairly admitted that a sum of Rs.35.00 lakhs was neither deposited in the Capital Gain Account scheme nor was it used for purchase of land before the prescribed date. Section 54B of the Act categorically states that the amount of capital gain on transfer of land used for agricultural purposes should not be charged to tax if a new land is purchased within a period of three years or the amount is deposited in a designated capital gain account scheme. Since the assessee failed to satisfy none of these conditions, no exception can be taken to the view canvassed by the ld. CIT in this regard. We, therefore, uphold the impugned order.

5. In the result, the appeal is dismissed.

Order pronounced in the Open Court on 01<sup>st</sup> July, 2020.

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

पुणे Pune; दिनांक Dated : 01<sup>st</sup> July, 2020  
*Satish*

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

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT-2, Pune
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे  
“बी” / DR ‘B’, ITAT, Pune
5. गार्ड फाईल / Guard file

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

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

		Date	
1.	Draft dictated on	01-07-2020	Sr.PS
2.	Draft placed before author	01-07-2020	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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