

आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में।
IN THE INCOME TAX APPELLATE TRIBUNAL “ABENCH,
PUNE

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND SHIR INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपीलसं. / ITA No.1116/PUN/2019
निर्धारण वर्ष / Assessment Year : 2006-07

Late Kadir Usman Shaikh, Legal Hier: Smt.Bilks Kadir Shaikh, Bunglow No.1, Vijay Nagar, Vardhman Society, Lonavala, Dist.Pune – 410401. PAN: ABXPS 8262 Q	Vs	The Income Tax Officer, Ward-8(4), Pune.
Revenue		Assessee

Assessee by	Shri Bhuvanesh Kankani & Paresh Shingavi – AR
Revenue by	Shri Ramnath P. Murkude – DR
Date of hearing	07/09/2022
Date of pronouncement	08/09/2022

आदेश/ ORDER

Per S.S.Godara, JM:

These assessee’s appeals for Assessment Year 2006-07 arises against the CIT(A), Pune-6’s orders dated 17.05.2019 passed in case no.PN/CIT(A)-6/ITO W.8(4)/318/2014-15 in proceedings under section 271(1)(c) of the Income Tax Act, 1961 [in short “the Act”].

Heard both the parties. Case files perused.

2. It emerges at the outset that the appellant herein Smt.Bilkis Kadir Shaikh the legal heir of the diseased assessee Shri Kadir Usman Shaikh. She challenges correctness of both the learned lower

authorities action imposing section 271(1)(c) penalty of Rs.3,17,517/- pertaining to the estimation of profits derived from sale of land treated as business income followed by section 40A(3) disallowance made in the assessment order dated 31.12.2009.

3. We next note that there is hardly any need for us to delve deeper in the relevant factual matrix. Suffice to say, the assessee herein Shri Kadir Usman Shaikh appears to have expired well before the Assessing Officer's penalty order dated 28.03.2014. That being the case, we quote CIT vs. S.Gouri [2019] 417 ITR 45(Madras) to hold that the impugned penalty imposed by the Assessing Officer is not maintainable against the assessee's legal heir herein under section 159 of the Act. We therefore delete the impugned penalty for this precise reason alone. All other pleadings on merits stand rendered academic.

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

Order pronounced in the open Court on 8th September, 2022.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 8th Sep, 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.