आयकर अपीलीय अधिकरण, दिल्ली पीठें, नई दिल्ली
INCOME TAX APPELLATE TRIBUNAL, DELHI
BENCHES, NEW DELHI

BENCH: SMC

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

ITA 7235/DEL/2026 (निर्धारण वर्ष/Assessment Year: **2012-13**)		
VINAY CHAUHAN B-63, RAM PURI , NEAR SURYA NAGAR, GHAZIABAD-201011, UTTAR PRADESH	**Vs.**	**ITO, WARD 2(2)(5)** GHAZIABAD-201002, UTTAR PRADESH
अपीलार्थी /**Appellant**		प्रत्यर्थी /**Respondent**
Permanent Account Number of Assessee:		**AEMPC7588P**
अपीलार्थी द्वारा/Appellant represented by:	**Sh. M.P. Rastogi, Adv**	
प्रत्यर्थी द्वारा/Respondent represented by:	**Sh. Manoj Kumar, Sr. DR**	

सुनवाई की तारीख / Date of conclusion of hearing:	**15-Sep-2026**
घोषणा की तारीख / Date of pronouncement:	**15-Sep-2026**

आदेश / ORDER

PER SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER:

This assessee's appeal for assessment year 2012-13 arises against the Commissioner of Income Tax (Appeals)/Addl. JCIT(A) (for short, "CIT(A)"), Mumbai's DIN & Order No. ITBA/APL/S/250/2025-26/1087554285(1) dated 18-Mar-2026, involving proceedings u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961; hereinafter referred to as, "the Act".

Heard both the parties. Case file perused.

2. Now comes the sole substantive issue between the parties. The assessee/appellant herein pleads that both the learned lower authorities' respective assessment and lower appellate findings have erred in law and on facts in assessing him for having derived long term capital

gains "LTGC" amounting to Rs. 42,02,567/- which forms the sole substantive matter of the tribunal's apt adjudication herein.

3. Both the parties vehemently retreat their respective stands against and in support of the impugned addition. Mr. Rastogi invites the tribunal's attention to the assessee's detailed paperbook running into 91 pages contain the assessee's lease dated 29.12.2006 executed in his favour by the Noida authorities regarding allotment of plot number 257, block – G, sector 63, Noida. He thereafter appears to have executed an agreement to sell in favour of the twin parties ie., Kiran Sahu and Ravinder Prakash for a sum of Rs. 12,37, 500/- surrendering all his rights and title therein in financial year 2008-09. There is further no quarrel between the parties that the same followed a notarized tripartite agreement dated 28.06.2011 executed between the aforesaid twin vendees as well as the assessee with one Shri Rajpal Sharma wherein the former agreed to assign all their rights in favour of Shri Sharma for a sum of Rs. 59 lakhs which ultimately got registered as a transfer deed on 28.06.2011 i.e., on the very date. Both the learned lower authorities have admittedly held the assessee as liable to be assessed for his long-term capital gains *qua* this sale consideration of Rs. 59 lakhs in the relevant previous year.

4. It is in this factual backdrop that the assessee' sole substantive argument before the tribunal is that the impugned long-term capital gains are not sustainable in law and on facts not only in light of the fact that Shri Ravindra Prakash and Srimathi Kiran Sahu have already been assessed for the same to the extent of half share each but also he had no right or title left anymore in the relevant capital asset in light of his registered agreement to sell executed on 10.04.2008 in their favour. It is in this factual backdrop that the tribunal sought to ascertain the clinching factual position as to whether the assessee had declared his long-term capital gains arising from his registered agreement to sell dated 10.04.2008(*supra*) in assessment year 2010-11 or not. Mr. Rastogi has filed his not only his income tax return but also computation of his capital gains in light of the sale consideration received on 10.04.2008 (supra) which has gone unrebutted from the Revenue side. It emerges from a perusal thereof that assessee had declared total capital gains of Rs. 2,37, 500/- *qua* sale consideration of Rs. 12,37,500/- reduced by the cost of acquisition of Rs. 10 lakhs; respectively; and, therefore, it is hereby concluded that assessment of the capital gains once again *qua* the very capital asset forming subject matter of addition in

the instant appeal; is not sustainable in law. The same is directed to be deleted in very terms therefore.

5. This assessee's appeal is allowed.

Order pronounced in the open court on 15-Sep-2026.

Sd/-
SATBEER SINGH GODARA
JUDICIAL MEMBER

Delhi
Dated: 10.11.2026
Pooja Mittal, Sr PS

Copy to:

1	**VINAY CHAUHAN,** **B-63, RAM PURI , NEAR SURYA NAGAR,** **GHAZIABAD-201011,** **UTTAR PRADESH**
2	**ITO, WARD 2(2)(5),** **ITO, WARD 2(2)(5),** **GHAZIABAD-201002, UTTAR PRADESH**
3	THE PCIT / CIT,
4	THE D.R., ITAT, DELHI BENCH
5	GUARD FILE

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