



declaring an income of Rs.2,67,684/- was subject to a scrutiny assessment. In the course of assessment, the Assessing Officer noted on the basis of AIR information that assessee had purchased an immovable property valued at Rs.56,27,160/-. The Assessing Officer has noted in the assessment order that in the absence of any co-operation by the assessee inspite of issuance of notices of hearings, the assessment was finalised *ex parte* u/s 144 of the Act and the transaction of purchase of immovable property of Rs.56,27,160/- was taken as income from undisclosed sources in the absence of details, and added back to assessee's total income.

3. Before the CIT(A), the stand of the assessee was two fold; firstly, assessee canvassed that the property was beneficially purchased by Onkar Singh Kohli (HUF), where assessee was also a member and that the sale agreement was merely executed in her name on 29.04.2008. Secondly, so far as the source of investment was concerned, the claim of the assessee was that the amount was paid to the vendors from the account of the HUF, its *karta*, Shri Onkar Singh Kohli, proprietary concerns of Shri Onkar Singh Kohli as well as from her own bank. Both the aforesaid points have not been accepted by the CIT(A). The CIT(A) noted that the original agreement for sale was entered on 19.07.2007 between the vendor, Mrs. Madhurika Rashmikant Shah and Onkar Singh Kohli (HUF) for the purchase of the property in question, whereas the sale agreement dated 29.04.2008 was executed by the vendor (through her constituted Attorney, Shri Harpreet Singh Kohli) and the assessee. According to the CIT(A), the agreement does not reflect in any way that assessee had entered into the sale agreement dated 29.04.2008 as a representative of Onkar Singh Kohli (HUF). Insofar as the source of funds was concerned, CIT(A) notes that the bank account from

where payments were stated to have been made contained cash deposits and, therefore, she was not satisfied with the source of funds also. Thus, she upheld the addition of Rs.56,27,160/-. In this background, the learned representative for the assessee has made his arguments.

4. As per the learned representative, the entire transaction is still incomplete inasmuch as the property has yet not been transferred in the name of the assessee. The learned representative pointed out that the vendor did not deposit for clearance the cheques issued for a substantial amount of Rs.35,00,000/- and there is a civil dispute on this aspect. The learned representative pointed out that even the share certificate has not been issued by the housing society in the name of the assessee *qua* the property in question. In any case, it is pointed out that under these circumstances, it would be in the fitness of things if the matter is restored back to the file of the Assessing Officer for an assessment afresh considered in the light of the subsequent developments.

5. On the other hand, the Id. DR has supported the orders of the authorities below, but has not seriously opposed the plea for remand of the matter back to the file of AO for an assessment afresh.

6. We have carefully considered the rival submissions. At the time of hearing, the learned representative for the assessee has referred to pages 87 to 90 of the Paper Book wherein is placed the details and photocopies of the cheques amounting to Rs.35,00,000/- dated 16.07.2008 which, according to him, have not been encashed by the vendor. It is also canvassed that the property has yet not been transferred in the name of the assessee since the

vendor has raised a dispute, which is in litigation. It is, therefore, canvassed that the matter may be restored back to the file of Assessing Officer for an assessment afresh. Pertinently, the entire genesis of the addition arises from the property purportedly acquired by the assessee by way of a sale agreement dated 29.04.2008. If the acquisition of the property is not complete, as has been sought to be made out by the appellant before us, in our view, it would be in the fitness of things that the assessment relating to the source of acquisition be reviewed considering the new development. Therefore, in this view of the matter, we are inclined to set-aside the order of CIT(A) and restore the matter back to the file of the Assessing Officer who shall reassess the impugned issue as per law, of course, after allowing the assessee a reasonable opportunity of being heard in the matter.

7. In the result, appeal of the appellant is allowed for statistical purposes.

Order pronounced in the open court on 28<sup>th</sup> February, 2018.

Sd/-  
**(C.N. PRASAD)**  
**JUDICIAL MEMBER**

Sd/-  
**(G.S. PANNU)**  
**ACCOUNTANT MEMBER**

Mumbai, Date : 28<sup>th</sup> February, 2018

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Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "E" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar  
I.T.A.T, Mumbai