

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC" NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER**

I.T.A. No.2998/DEL/2018  
Assessment Year: 2014-15

Agarwal Trucking P. Ltd., Opp. Kalyani Petrol Pump, Panna Naka, Satna. Madhya Pradesh.	v.	ITO, Ward-1(4), Range-1, New Delhi.
TAN/PAN: AAKCA 6430F		
(Appellant)		(Respondent)

Appellant by:	Shri Ved Jain, CA		
Respondent by:	Shri C.P. Singh, Sr.D.R.		
Date of hearing:	13	09	2018
Date of pronouncement:	11	12	2018

**ORDER**

The aforesaid appeal has been filed by the Assessee against the impugned order dated 19.02.2018 passed by the Commissioner of Income Tax (Appeals)-I, New Delhi for the quantum of assessment passed u/s.143(3) for the Assessment Year 2014-15. The only issue raised in various grounds of appeal is addition of Rs.12,63,200/- made u/s.69B of the Act on account of difference between the cost of loss shown by the assessee and determined by the Valuation Officer.

2. The facts in brief are that the assessee-company had purchased a land at Mauja Bagha, Halka No.99, Ward No.03, Tehsil Raghuraj Nagar, Satna (MP) at a cost of Rs.67,00,000/- as against the stamp value of Rs.1,78,00,000/-. The Assessing Officer had referred the matter to the DVO who had

valued the cost of land at Rs.79,63,200/- as against the declared value of Rs.67,00,000/- as on Financial Year 2013-14. The assessee before the Assessing Officer submitted that though as per the stamp value of the property was Rs.1.78 crore, however, the property was sold at a much lower rate. The Departmental Valuation Officer after taking into consideration comparable sales instances has estimated the value at Rs.79,63,200/-. The Assessing Officer has thus added the difference amount of Rs.12,63,200/- u/s.69B.

3. Ld. CIT(A) has confirmed the said addition holding that the valuation of the DVO which is based on comparability analysis on local sales data has rightly been adopted by the Assessing Officer.

4. Before us, learned counsel submitted that, first of all provision of Section 50C would not be applicable, because same is applicable in the case of the seller and here assessee has purchased property. The provision of Section 56(2)(viiia) would also be not applicable as the assessee is a company and provision under which such a difference could have been added was u/s.56(2)(x) which came into the statute only w.e.f. 01.04.2017. Thus, such an addition simply based on DVO's report cannot be sustained u/s.69B.

5. On the other hand, learned Department Representative has strongly relied upon the order of the Assessing Officer and ld. CIT(A).

6. After considering the rival submissions and on perusal of the impugned order, we find that the assessee had

purchased a land for which stamp duty as per the circle rate was 1.78 crore, whereas the assessee has purchased a property at Rs.67,00,000/-. The Assessing Officer after referring the matter to the DVO had adopted the value at Rs.79,63,200/- which is based on certain comparables sale instances. There is no material whatsoever to show that assessee had paid any consideration over and above the purchase value declared by it and there is no provision to make any addition in the hands of the purchaser on estimated Fair Market Value. The provision of Section 56(2)(vii) would not be applicable because it refers to the property purchased by any individual or HUF and here this is a case of a Pvt. Ltd. Company. The only provision under which same could have been taxed is under the deeming provision u/s.56(2)(x) which is admittedly not applicable in the year under consideration. Thus, to make an addition on the ground that assessee must have paid extra for the purchase cannot be made simply on the basis of valuation report because before making a reference to the DVO, Assessing Officer first has to give a finding that the amount expended for making such investment exceeds such amount recorded in the books for which Assessing Officer was required to have some material or satisfaction whether any undisclosed amount has been paid for making an investment or not. The opinion of the DVO *per se* in absence of any incriminating evidence or material to suggest that assessee has made any payment over and above the stated consideration cannot be relied upon. Accordingly, the addition as made by the Assessing Officer is simply on the DVO's

estimation and the same is directed to be deleted.

7. In the result, the appeal of the assessee is allowed.

**Order pronounced in the open Court on 11<sup>th</sup> December, 2018.**

**Sd/-**

**[AMIT SHUKLA]  
JUDICIAL MEMBER**

DATED: 11<sup>th</sup> December, 2018

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2. Respondent
3. CIT(A)
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