

IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE SMC BENCH, INDORE

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 691/Ind/2018
A.Y. 2015-16

Smt. Urmila Dhanotia, Indore
 PAN – ABLPD 3569 K :: Appellant

Vs

ITO-2(3), Indore :: Respondent

| | |
|-----------------------|---------------------------|
| Assessee by | Shri K.C. Agrawal, CA |
| Respondent by | Shri V.J. Boricha, Sr. DR |
| Date of hearing | 06.3.2019 |
| Date of pronouncement | 15.3.2019 |

O R D E R

This appeal is filed by the assessee against the order of Id. CIT(A)-I, Indore, dated 18.5.2018 on the ground that Id. CIT(A) erred in sustaining the addition of Rs.24,02,000/- u/s 56(2)(vii) made by the Assessing Officer.

2. Facts, in brief, are that the assessee had purchased an agricultural land at Rs.33 lacs. The stamp duty authority had adopted transaction value at Rs.57,02,000/- of the said land for valuation. Therefore, the Assessing Officer had asked why this difference amount should not be treated as income from other sources. The assessee through her consultant filed reply. However, the Assessing Officer did not agree with the reply and made the addition of difference amount i.e. Rs.24,02,000/- u/s 56(2)(vii) of the Income Tax Act. Being aggrieved, the assessee went in appeal before the Id. CIT(A), who also confirmed the action of the Assessing Officer mainly on the ground that being questioned by the Assessing Officer, the

assessee has changed the stand and she failed to prove before the Assessing Officer that the alleged property was held as stock in trade. Still aggrieved, the assessee is before this Tribunal.

3. At the outset of the hearing, Id. counsel for the assessee contended that the Assessing Officer did not appreciate the facts in proper perspective and made the addition. He, relying upon the memorandum explaining the provisions of Section 56(2)(vii) of Finance Bill 2010-11, submitted that the said property was purchased by the assessee for the purpose of business and in response to notice dated 27.4.2017, the assessee filed balance-sheet much prior to show-cause notice wherein the land in question was shown as stock-in-trade. The copies of the balance-sheet and capital account are filed in the paper book. There was no change of stand as the assessee had filed the return of income in time and at no place, the assessee had shown the said land as investment, thus, there was no requirement to file any revised return. Even, the Assessing Officer did not comment upon adversely on the balance-sheet and in the present assessment year being the first year when the assessee had opted to carry on business of real estate, no expenses like stamp duty, registration charges, lawyers fees were incurred and all such expenses had been included in the value of land and shown as closing stock in the balance-sheet. Thus, the learned Counsel for the assessee contended that the provisions of Section 56(2)(vii) of the Income Tax Act are not applicable. On the other hand, Id. Sr. DR relied on the orders of the Revenue Authorities.

4. I have heard both the parties and perused the orders of lower authorities. Before me, the assessee has filed a paper book running into 25 pages, wherein relevant documents have been annexed in support of the claim of the learned

Counsel for the assessee. Considering the facts and circumstances of the case in the light of the aforesaid submission of the learned Counsel for the assessee, I am of the view that in the interest of justice, the assessee's matter is required to be reconsidered by the Assessing Officer. Accordingly, the orders of the Revenue Authorities are set aside and the matter is restored back to the file of the Assessing Officer. Assessee would appear without waiting before the Assessing Officer for further necessary action. The Assessing Officer would examine the contention of the assessee from the papers filed before me and then reframe the assessment afresh in terms as indicated hereinabove after affording due opportunity of being heard to the assessee as per law and the assessee is also directed to furnish the evidence/submission, if any, in support of her claim and cooperate before the Assessing Officer in this regard.

5. In result, appeal filed by the assessee is allowed for statistical purposes only.

Order was pronounced in the open court on 15.3.2019.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

Dated : 15.3.2019

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Copy to:

Appellant/Respondent/Pr.CIT(A)/Pr.CIT/DR, Indore