

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES (SMC), JAIPUR

श्री रमेश सी शर्मा, लेखा सदस्य के समक्ष
BEFORE: SHRI RAMESH C SHARMA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 113/JP/2019
निर्धारण वर्ष / Assessment Year : 2014-15

Shri Ashfaque Ahmed, C/o- Ashish Khandelwal & Associates, G-2, Arihant Tower-2, Opp.- BSNL Telephone Exchange, Sanganeri Gate, Jaipur.	बनाम Vs.	ACIT, Circle-5 Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ABRPA 9053 B		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Aashish Khandelwal (CA)
राजस्व की ओर से / Revenue by : Ms. Anuradha (JCIT)

सुनवाई की तारीख / Date of Hearing : 18/03/2019
उदघोषणा की तारीख / Date of Pronouncement : 20/03/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This is an appeal filed by the assessee against the order of Id.CIT(A)-II, Jaipur dated 19/11/2018 for the A.Y. 2014-15 in the matter of order passed U/s 143(3) of the Income Tax Act, 1961 (in short the Act).

2. In this appeal, the assessee is aggrieved for addition of Rs. 3,24,800/-.

3. Rival contentions have been heard and record perused. Facts in brief are that during the year under consideration, the assessee had acquired a house property. The Assessing Officer made addition by taking valuation as per the Sub-Registrar and thereby made addition of Rs. 14,04,254/- U/s 56(2)(vii)(b)(ii) of the Act after disregarding considerations disclosed in the sale deed. Even though, the Assessing Officer has referred the matter to the DVO on the objection raised by the assessee but the DVO's report was not received. Accordingly, he has taken the value shown by the Sub-Registrar as a sale consideration. When the appeal was pending before the Id. CIT(A), the DVO has issued valuation report valuing the property at Rs. 58,24,800/- as against the sale consideration of Rs. 55.00 lacs shown by the assessee. However, by pointing out the defect in the DVO report, the Id. CIT(A) has upheld the addition made by the Assessing Officer. I do not find any merit in the action of the Id. CIT(A) in sustaining the addition made by the Assessing Officer by considering the stamp valuation as a gospel truth and brushing aside the report of the DVO, objection raised by the assessee and also overlooking the report of the registered valuer. From the record, I found that even the DVO has valued the property at Rs. 58,24,800/- without taking into account the fact that the property acquired by the assessee was occupied by the tenants which adversely affects the purchase price of

the property. After taking into account, the DVO's report there remains difference of only. 5.91%. The Hon'ble Supreme Court in the case of Gautam (CB) Vs. Union of India (1993) 199 ITR 530 has recognized a tolerance limit for pre-emptive purchase of property under Chapter XX-C at 15% for variations. Keeping in view the fact that the property so purchased by the assessee was occupied by the tenants which has not been taken into consideration by the DVO while valuing the property and even without considering the adverse feature so pointed out. The difference in the purchase consideration shown by the assessee vis a vis valuation made by the DVO is merely 5.91%. Keeping in view the totality of the facts and circumstances, I do not find any justification even for upholding the addition of Rs. 3,24,800/- which is the difference in the sale consideration shown by the assessee at Rs. 55.00 lacs as against the DVO valuation of Rs. 58,24,800/-, therefore, the Assessing Officer is directed to delete the addition so made.

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

Order pronounced in the open court on 20th March, 2019

Sd/-
(रमेश सी शर्मा)
(RAMESH C SHARMA)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur
दिनांक / Dated:- 20th March, 2019

***Ranjan**

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:

1. अपीलार्थी/The Appellants- Shri Ashfaque Ahmed, Jaipur.
2. प्रत्यर्थी/ The Respondent- The ACIT, Circle-5, Jaipur.
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त(अपील)/The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर/DR, ITAT, Jaipur
6. गार्ड फाईल/ Guard File (ITA No. 113/JP/2019)

आदेशानुसार/ By order,

सहायक पंजीकार/Asst. Registrar