

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC", BENCH KOLKATA**

**BEFORE SHRI S. S. GODARA, JM**

**आयकर अपीलसं./I.T.A No.1516/Kol/2019**

**(निर्धारण वर्ष / Assessment Year: 2015-16)**

<b>Gopal Kumar Saha</b> 54/5A, OM Building, Strand Road, Barabazar, Kolkata – 700 006.	<b>Vs.</b>	<b>ITO, Ward – 37(1), Kolkata</b>
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ASUPS 7018 L</b>		
<b>(Appellant)</b>	<b>..</b>	<b>(Respondent)</b>

Appellant by : None

Respondent by : Shri Jayanta Khanra, JCIT, Sr. DR

सुनवाईकीतारीख/ **Date of Hearing** : **23/12/2019**

घोषणाकीतारीख/**Date of Pronouncement** : **31/12/2019**

**आदेश / O R D E R**

This assessee's appeal for assessment year 2015-16 arises against the Commissioner of Income Tax (A)-11, Kolkata dated 27.03.2019 passed in case no.CIT(A)-11/Kol/10104/2017-18 involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Case called twice. None appears at assessee's behest. The registry has already sent it an RPAD notice for today's hearing. It is accordingly produced ex-parte.

2. The assessee's sole substantive grievance raised in the instant appeal challenges correctness of both the lower authorities' action invoking section 56(2)(vii)(b)(ii) addition of Rs. 19,29,100/- on account of difference between actual and stamp price in the purchase deed executed on 26.11.2014. The Revenue's only argument is that although the assessee had entered into corresponding purchase agreement on 17.03.2011 and paid cheque amount of Rs. 80,000/- on the very date, the same was not a registered document which could be taken as compliance of section 56(vii)(b) 1<sup>st</sup> and 2<sup>nd</sup> proviso to this effect. I find no

merit in the Revenue's instant technical argument. The fact remains that neither of the lower authorities has doubted genuineness of assessee's above stated agreement or part payment made by banking channel. There is further no material supporting the Revenue's case that the above statutory behest is restricted to a registered agreement only. I therefore hold that both the lower authorities have erred in law as well as on fact in making the impugned tradition of Rs. 19,29,100/- . The same is directed to be deleted.

3. The assessee's appeal is allowed

Order is pronounced in the open court on 31.12.2019.

Sd/-  
(S. S. Godara)  
JUDICIAL MEMBER

कोलकाता /Kolkata;  
दिनांक/ Date: 31/12/2019  
(Biswajit, Sr.PS)

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. The Appellant - Gopal Kumar Saha.
2. The Respondent- ITO, Ward – 37(1), Kolkata.
3. आयकरआयुक्त(अपील) / The CIT(A), Kolkata [sent through email]
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, कोलकाता/ DR, ITAT, Kolkata [sent through email]
6. गार्डफाईल / Guard file.  
सत्यापितप्रति

True Copy

By Order

Assistant Registrar,  
I.T.A.T, Kolkata Benches,  
Kolkata.