

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

BEFORE SHRI R.C.SHARMA, ACCOUNTANT MEMBER

**ITA No.264/Mum/2019
(Assessment Year: 2014-15)**

Mrs. Karina Chandur Moriani Flat No. 701, Shantanu Building, St. Martins Road, Bandra (W), Mumbai-400050.	Vs.	Commissioner of Income Tax (Appeals)-48, 10 th Floor, Pratihtha Bhawan, Old CGO Building, M.K. Road, Mumbai-400020.
PAN/GIR No. AAAPJ 8472 B		
(Appellant)	..	(Respondent)

Assessee by	Shri Mulraj D Gala (AR)
Revenue by	Shri Akhtar H Ansari (DR)
Date of Hearing	21/01/2020
Date of Pronouncement	28/01/2020

आदेश / O R D E R

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

This appeal by the assessee is directed against the order dated 12/10/2018 of Id. CIT(A)-48, Mumbai 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 adopting ALV at 7% in respect of industrial shed.

3. Rival contentions have been heard and record perused. The facts in brief are that the assessee is owning a house property

situated at Vishal Cooperative Housing Society at Anand Nagar and an industrial shed situated at Gala at Vakola, Santacruz East, Mumbai. While framing the assessment, the A.O. added 7% of the industrial Gala as ALV in assessee's income. It was contention of the assessee that the industrial Gala is not a house property and only one house property was in the form of flat situated at Vishal Cooperative Housing Society at Anand Nagar. However, the A.O. did not agree with the assessee's contention and added the ALV of industrial Gala in assessee's hands. By the impugned order, the Id. CIT(A) has confirmed the action of the A.O., against which the assessee is in further appeal before the ITAT.

4. I have considered the rival contentions and carefully gone through the orders of the authorities below and found that the A.O. has made addition in respect of industrial Gala which is not a house property within the meaning of provisions of Section 22 and 23 of the Act, in so far as it was meant for use by assessee for the purpose of his business. The industrial Gala was used by the assessee as his business asset. The residential flat owned by the assessee was situated at Vishal Cooperative Housing Society at Anand Nagar, Santacruz. One flat is free in the hands of the assessee and ALV of which cannot be computed u/s.23(4) since it was kept for use by the

assessee for his own residence. Accordingly, there is no merit in the orders of the lower authorities.

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

Order pronounced in the open court on 28th January, 2020.

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Mumbai; Dated 28/01/2020
*Ranjan

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai