

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

BEFORE SHRI R.C.SHARMA, AM & SHRI PAWAN SINGH, JM

**ITA No. 7279/Mum/2018
(Assessment Year: 2014-15)**

Smt. Sumitraben Jain, Flat No. 602, Shree Ramnath CHSL, 6 th Floor, Opp. Karnataka Hall, Mogal Lane, Mahim West, Mumbai-400016.	Vs.	I.T.O.-21(3)(4) Pratishtha Bhavan, Old CGO Annexe, Maharishi Karve Road, Mumbai- 400020.
PAN/GIR No. AAJPJ 7072 J		
(Appellant)	..	(Respondent)

Assessee by	Mohd. Hashim (AR)
Revenue by	Shri Satish Chandra Rajore (DR)
Date of Hearing	26/02/2020
Date of Pronouncement	04/03/2020

आदेश / O R D E R

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

This is the appeal filed by the assessee against the order of the Id. CIT(A)-48, Mumbai dated 31/10/2018 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). The assessee has raised following grounds of appeal:

- "1. On the facts and circumstances of the case and in law, the Id. Commissioner of Income Tax (Appeals)-48 [hereinafter referred to as Ld. CIT(A)] erred in confirming action of Ld. AO of making addition u/s*

56(2)(vii)(b) of the Act without referring the matter to Departmental Valuation Officer.

2. *That the order of Ld. CIT(A) is bad in law and on facts.*
3. *The appellant craves leave to add or amend the foregoing grounds of appeal."*

2. Rival contentions have been heard and record perused. Facts in brief are that during the year under consideration, the assessee had purchased a residential flat for Rs. 1.15 cores having stamp duty value of Rs. 1.40 crore. In the scrutiny assessment, the A.O. added a sum of Rs. 25.00 lacs (Rs. 1.40 crore being value adopted by the Jt. Registrar for the purpose of payment of stamp duty less Rs. 1.15 crore being purchase consideration) U/s 56(2)(vii)(b) of the Act. By the impugned order, the Id. CIT(A) had confirmed the action of the A.O., against which the assessee is in further appeal before the ITAT.

3. We have considered the rival contentions and carefully gone through the orders of the authorities below and found from the record that before the A.O., the assessee has made a request for referring the matter to the DVO, however, without referring the same, the A.O. directly applied provisions of Section 56(2)(vii)(b) of the Act and added the difference in the sale consideration as mentioned in the sale deed as compared to the sale consideration adopted by the Sub-Registrar for the purpose of registration.

Therefore, in the substantial interest of justice, we restore the matter back to the file of the A.O. for making a reference to the DVO so as to find out valuation of the assets so purchased as compared to the value determined by the Sub-Registrar. We direct accordingly.

4. In the result, the appeal of the assessee is allowed in part for statistical purposes.

Order pronounced in the open court on 04th March, 2020.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

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

Mumbai; Dated 04/03/2020
*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