

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE – VIRTUAL COURT

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

ITA No.1388/PUN/2019
निर्धारण वर्ष / Assessment Year : 2015-16

Nayana Jayesh Jain, Kanchan Building, 512, Gurwar Peth, Gawri Ali, Pune-411042. PAN : ATPTJ4910J	Vs.	ITO, Ward-6(4), Pune
Appellant		Respondent

Assessee by Shri Shailesh Oswal
Revenue by Smt. Shraddha Nichal
Smt. Nishtha Tiwari

Date of hearing 28-07-2020
Date of pronouncement 28-07-2020

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee is directed against the order passed by the CIT(A)-4, Pune dated 10-07-2019 in relation to the assessment year 2015-16.

2. The only issue raised in this appeal is against the addition on account of valuation of a property, namely, Office Units No.18 & 19, 5th Floor, D Tower, Vega Centre, Gultekadi, Pune purchased by the assessee. Succinctly, the facts of the case are that the assessee jointly purchased the afore-referred commercial property.

The said property was purchased by the assessee, having 1/6th share along with the other five co-owners, for a total consideration at Rs.1,80,00,000/-. Resultantly, the assessee showed a payment of Rs.30,00,000/- as her share towards investment in the property. During the course of assessment proceedings, the Assessing Officer observed that the stamp value of the property was Rs.2,61,73,956/- as against the property shown to have been purchased at Rs.1.80 crore. Considering the provisions of section 56(2)(vii) of the Act, the Assessing Officer worked out the assessee's 1/6th share in the said excess amount at Rs.13,62,326/-. On confronted, the assessee requested the Assessing Officer for making a reference to the DVO for determining the fair market value of the property u/s 55A of the Act. The assessment was getting time barred on 31.12.2017. Since no valuation report was received till the date of passing of the assessment order on 20.12.2017, the Assessing Officer added the differential amount of Rs.13,62,326/- to the total income of the assessee. During the course of the first appellate proceedings, the assessee submitted that the report of the DVO was received determining fair market value of the property at Rs.2,11,42,000/-. The assessee also

challenged the DVO's report on several counts. Not convinced, the ld. CIT(A) worked out the assessee's share in the excess by adopting fair market value of Rs.2,11,42,000/- as against the stamp value taken by the Assessing Officer at Rs.2,61,73,956/- in the assessment. Aggrieved thereby, the assessee is in appeal before the Tribunal.

3. We have heard both the sides through Virtual Court and gone through the relevant material on record. It is seen that the addition has primarily been sustained in the first appeal on the basis of the DVO's report, whose copy is available at page 1 onwards of the Paper Book. It can be seen from Annexure-1 to the DVO's report that rate of Rs.77,640/- has been adopted by him for valuing the commercial area as well as car parking determining the total value of the property at Rs.2,11,42,000/-. The ld. AR contended that there is no basis for computing Rs.77,640/- per sq. mtr in the DVO's report. The Bench directed the ld. DR to point out the basis of the DVO's report through which the rate of Rs.77,640/- per sq. mtr was arrived at. She also could not correlate this figure with any finding from the DVO's report. Thus, it can be seen that the rate adopted in the DVO's report at Rs.77,640/- per sq. mtr is

without any basis. Our attention has also been drawn towards the Preliminary valuation report by the DVO, whose copy has been made available at page 5 onwards of the Paper Book. Annexure-2 to the said report refers to seven comparable sale instances with per sq. mtr sale rate at Rs.84,859/-, Rs.57,498/-, Rs.63,223/-, Rs.56,740/-, Rs.71,443/-, Rs.59,613/- and Rs.41,130/- In the absence of any elaboration of the rate adopted by the DVO in his final report, we consider it expedient to restrict the fair market value rate at the average of the seven sales instances given in the Preliminary report, which comes to Rs.62,073/-. The Assessing Officer is directed to adopt this as per sq. mtr. fair market rate and then work out addition, if any, u/s 56(2)(vii) of the Act accordingly. The impugned order is set-aside to this extent.

4. In the result, the appeal is partly allowed.

Order pronounced in the Open Court on 28th July, 2020.

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 28th July, 2020
Sujeet

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-4, Pune
4. The Pr. CIT-3, Pune
विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे /
DR 'SMC', ITAT, Pune
5. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	28-07-2020	Sr.PS
2.	Draft placed before author	28-07-2020	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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