

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DEHRADUN CIRCUIT BENCH: DEHRADUN**

**BEFORE MS SUCHITRA KAMBLE, JUDICIAL MEMBER  
AND  
DR. B. R. R. KUMAR, ACCOUNTANT MEMBER**

**ITA No. 5965/DDN/2018 ( A.Y 2014-15)**

**(THROUGH VIDEO CONFERENCING)**

Mohd. Rafi Raja Complex, Ward No. 4, Tehsil Road, Kaladhungi, Nainital, Uttarakhand ASKPM2167N <b>(APPELLANT)</b>	Vs	ITO Ward-1(2) Haldwani, Uttarakhand  <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Sh. S. K. Chaturvedi, CA</b>
<b>Respondent by</b>	<b>Sh. N. C. Upadhyaya, Sr. DR</b>

<b>Date of Hearing</b>	<b>19.02.2021</b>
<b>Date of Pronouncement</b>	<b>12.03.2021</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeal is filed by the assessee against the order dated 12/06/2018 passed by CIT(A)-Haldwani for Assessment Year 2014-15.

2. The grounds of appeal are as under:-

1. *“On the facts and in circumstances of the case as well as law on the subject, the Ld CIT(A) has erred in confirming the action of AO in reopening the assessment u/s 147 of the Income Tax Act, 1961.*
2. *That CIT(A) has erred in law and on facts by confirming the addition of Rs. 1341000/- u/s 56(2)(vii)(b) of the Income Tax Act, 1961, the difference of stamp value and actual sale consideration of agriculture land which was out of purview of capital asset as defined u/s 2(14) of the Act, this action is illegal*

*and against the facts and circumstances of the case.*

*3. That the CIT(A) has erred by not considering the legal issue while confirming the action of AO in invoking the provisions of section 147 i.e. the satisfaction was for escapement of income to the tune of Rs. 3535500/- consisting the amount of unexplained sources of investment at Rs. 2192500/- and the difference of stamp value of agriculture land and actual purchase consideration at Rs. 1341000/-, as against the same the addition was illegally made for the later only, this action is illegal, arbitrary and against the settled law.”*

3. The assessee purchased agricultural land situated outside the Municipal limits of Nagar Panchayat Kaladungi. The value as per stamp valuation of the land is Rs. 33,41,000/- and sale consideration was Rs. 20 lacs. The assessee e-filed his return of income for Assessment Year 2014-15 on 9/9/2014 declaring total income of Rs.2,46,815/-. In respect of purchase of land the Assessing Officer raised a query for which the assessee submitted that the investment was made out of his own savings and furnished the cash flow statement in support of his claim. The Assessing Officer assessed the total income of Rs. 15,87,815/- thereby making addition of RS. 13,41,000/- being difference of value as per circle rate.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the CIT(A) totally ignored the fact that the difference of stamp value and actual sale consideration of agricultural land was taken by the Assessing Officer which was out of purview of capital asset as defined Section 2(14) of the Act. Hence, the Ld. AR submitted that the addition may be deleted.

4. The Ld. DR relied upon the assessment order and the order of the CIT(A).

5. We have heard both the parties and perused the material available on record. It is pertinent to note that the purchase of land and the registration fees/stamp duty was never questioned by the Assessing Officer and there was no effort made by the Assessing Officer for taking the cognizance of the DVO report. The CIT(A) also failed to do so and merely on the assumption basis, the Revenue has made the addition which is unjust and not proper as per the provisions of Section 56(2) (vii) (b) of the Act. Hence, appeal of the assessee is allowed.

6. In result, the appeal of the assessee is

**Order pronounced in the Open Court on this 12th Day of March, 2021**

**Sd/-**

**(B. R. R. KUMAR)**  
**ACCOUNTANT MEMBER**

**Sd/-**

**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

Dated: 12 /03/2021  
R. Naheed

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

