IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "SMC" BENCH: NEW DELHI

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No.8529/Del/2019
[Assessment Year : 2010-11]

Madhav Rastogi, 2, Sreeniketan Apartments, 24, Vasundhara Enclave, New Delhi-110096. PAN-AHOPR9376D	vs	ITO, Ward-61(2), New Delhi.
APPELLANT		**RESPONDENT**
Appellant by	Shri Madhav Rastogi, Adv.	
Respondent by	Shri Om Prakash, Sr.DR	
Date of Hearing	22.04.2022	
Date of Pronouncement	20.05.2022	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2010-11 is directed against the order of Ld. CIT(A)-20, New Delhi dated 27.08.2019. The assessee has raised following grounds of appeal:-

1. *"**General ground**-That the order dated August 27, 2019 passed by Ld. Commissioner of Income Tax Appeals-20 ('CIT(A)') u/s 250 of the Act is bad in law and void ab-initio.*

2. ***Addition of the amount being the difference between the circle rate of the property purchased and actual consideration paid is bad in law.***

   That Ld. CIT(A) has erred in law and on facts and circumstances of the case in upholding the addition of Rs. 25,02,100/- made by the Ld. AO to the appellant's returned income u/s 69.

3. ***Complete disregard of statutory provisions, established principles and binding precedents.***

   That Ld. AO and subsequently Ld. CIT(A) have in complete disregard of the statutory provisions, established principles and binding

precedents added the notional difference between the circle rate and transaction price to the income of the assessee.

4. ***Incriminating order without any positive evidence.***

The Ld. CIT(A) has furthered the case of the AO and has made allegations based on preconceived notions and accordingly decided the case against the assessee without having any positive evidence against the assessee.

5. ***Order against principles of natural justice.***

That Ld. CIT(A), while sitting in an adjudicator's position, has led the arguments on behalf of the revenue without giving any opportunity to the assessee to rebut such arguments.

6. ***Interest*** *-That the Ld A.O has erred in law in computing the interest u/s 234B on the alleged tax payable.*

7. *Allowing the addition, deletion, modification in the grounds and for granting consequential relief and or legal claim arising out of this appeal before the disposal of the same."*

FACTS OF THE CASE

2. Facts in brief are that the case of the assessee was re-opened on the basis that the assessee had purchased immovable property valued at Rs.80,03,000/-. u/s 147 of the Income tax Act, 1961 ("the Act"). Thereafter, a notice u/s 148 of the Act was issued to the assessee. In response thereto, the assessee appeared and filed the requisite details. The Assessing Officer ("AO") proceeded to make assessment and made addition of Rs.25,02,100/- as the undisclosed income u/s 69 of the Act; disallowance of conveyance expenses of Rs.42,470/- and difference in the professional income as per Form No.16A of Rs.10,73,759/-.

3. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions of the assessee, partly allowed the appeal of

the assessee. Thereby, he directed the AO regarding claim of the assessee qua the professional income of Rs.10,73,759/- to verify the same from Form No.26AS and delete if find correct and rest of the addition was sustained.

4. Aggrieved against the order of Ld.CIT(A), the assessee preferred appeal before the Tribunal.

5. Apropos to Ground Nos. 1 to 6 of assessee's appeal, the assessee has reiterated the submissions as made in the written submissions. The written submissions of the assessee are reproduced as under:-

> *1. "The sum and substance of the matter before the Hon'ble Bench is the addition of Rs. 25,02,100 (Rupees twenty five lakhs two thousand and one hundred only) as income in the hands of the assessee. The said amount was the difference between actual purchase price of a property and the then prevailing circle rate of the property. The property was jointly purchased by my father and myself for a total consideration of Rs. 55,00,000/- (Rupees fifty five lakhs only). The sale deed was executed on April 1, 2009 while the payments for the purchase of the property were already made in and around January and February, 2009. At the time of registration of the sale deed, it was found that the circle rate of the property was higher at Rs. 80,02,100/- and accordingly in compliance of the provisions of the Indian Stamp Act, 1899 (as applicable in Uttar Pradesh), the higher stamp duty was paid at the circle rate.*
>
> *2. The aforesaid addition was made by the learned Assessing Officer ("AO") without any substance or proof in his assessment order dated September 20, 2017. The said amount was added as income from undisclosed investment under Section 69 of the Income Tax Act, 1961 ("the Act").*
>
> *3. The assessment order was challenged before Ld. CIT (Appeals). During the appeal proceedings before CIT (Appeals), despite the Assessee presenting the established judicial precedent based on decided cases, the*

CIT (Appeals) passed a non-speaking order on August 27, 2019 giving no explanation why the established principles of law are being negated and disregarded and the perverse order of the AO was substantiated by whimsical and imaginative explanations.

4. The said order dated August 27, 2019 passed by Ld. CIT (Appeals) - 20 and the assessment order dated September 20, 2017 passed by the AO are being assailed vide this appeal before the Hon'ble Bench of ITAT. Ld. CIT (Appeals) order is annexed at Annexure 1 and Assessment Order is annexed at Annexure 2 to these submissions.

BACKGROUND

5. I had received a notice under Section 148 on April 1, 2017 for assessment year 2010-2011 from Ms. Rashmi Verma (ITO, Ward 61(3)) which is annexed as Annexure 3. Against the said notice, I sought the reasons for the issuance of the said notice by my letter dated April 30, 2017. I also submitted the ITR filed for AY 2010-11 along with the intimation received under Section 143(1) of the Act along with the said letter. The copy of my reply dated April 30, 2017 is annexed as Annexure 4. Thereafter, I did not receive any response from the Income Tax Department (ITD).

6. On Saturday, August 5, 2017,1 received a call from the learned assessing officer (AO), Mr. Anil Kumar Verma that I did not attend his office on August 2, 2017. It is important to note that till this time, I had not received any correspondence/ notice from ITD after the one received in April. I requested him that I shall attend his office next week. Thereafter, on August 8, 2017, I went to the office of AO, and met him but he told me that he cannot spare time that day and asked me to come again.

7. Thereafter, on August 9, 2017, I received the following letters from the AO, which were dispatched to me on August 8, 2017 itself:

- *(i) Notice dated July 14, 2017 u/s 143(2) of the Act;*
- *(ii) Notice dated July 14, 2017 u/s 142(1) of the Act;*

(iii) Letter No. F. No. ITO Ward 61(2)/94/2017-18/141 dated July 14, 2016, in response to my letter dated April 30, 2017 and providing me the reasons and copy of instructions received under Section 151(1) of the Act for issuing me a notice u/s 148 of the Act.

Copies of the aforesaid letters are annexed hereto as Annexure 5.

8. As per the said letters, I was required to meet the AO on August 2, 2011, which date had later been corrected to August 11, 2017. Being put to such short notice, it was not possible to collect all the documents, and I sent an email on August 11, 2017, seeking a week's time to produce all the documents. Instead of responding to my request, the AO served me a show cause notice on August 18, 2017 for penalty proceedings u/s 271(b) for not attending his office and required me to attend his office on August 24, 2017. This show cause notice itself was dispatched on August 22, 2017 and received by me on the evening of August 23, 2017.

9. I attended the office of the AO on August 24, 2017 and provided him copies of documents he had asked me on his phone call on August 5, 2017. The copy of my submission made to the AO on August 24, 2017 is annexed as Annexure 6. I, inter alia, submitted the following information along with supporting documents along on August 24, 2017:

(i) Copy of the Sale Deed of the property;

(ii) Copies of the receipts issued by the developer, Mahagun India Private Limited against the payments made for purchase of the property;

(iii) Copies of passbooks, bank statements, bank loan documents etc. to substantiate the source of funds for payment of the consideration of Rs. 55 lakhs to the developer.

10. During the course of my hearing on August 24, 2017, the AO asked me to bring certain moredocuments which I provided to him on September 1, 2017.The copy of my submission dated September 1, 2017 is annexed as Annexure 7. Amongst the information/documents I submitted on September 1, 2017, included the following:

(i) Copy of the income tax return for my father, Sh. Balram Manohar Rastogi (for AY 2010-11);

(ii) Copy of the acknowledgment for the income tax return for my mother, Smt. Sushma Rastogi (for AY 2010-11);

(iii) Since the payments for the property were made in AY 2009-10 (FY 2008-09), the narration of credit entries made in my HDFC Bank account;

(iv) Copy of my Form 16A in relation to the professional receipts received by me in FY 2008-09;

(v) List of my bank accounts;

(vi) Source of funds for my father, Sh. Balram Manohar Rastogi, towards his contribution for purchase of the property; and

(vii) Source of funds for my mother, Smt. Sushma Rastogi, towards her contribution for purchase of the property.

11. On September 1, 2017, I was further asked to submit more information, which was submitted on or around September 13, 2017.

12. During the course of the proceedings before the AO, the AO asked me information on the sources of funds for purchase of the property which I provided. It was explained that the property was purchased from the funds which were paid by my father, contributions from my mother, my past savings and a home loan taken from FIDFC Limited. The AO was given all the relevant documents he required to explain the source of each of the contribution made to the seller and the source of income of my father, my mother and myself.

13. Important to mention that during the course of the proceedings, the AO made no mention that I had made investments to the tune of the circle rate of the property. He did not seek any explanation on the difference between the circle rate and the actual price. I was at no time put to justify that why the AO should not consider the circle rate as the value of my investment in the property.

14. On September 20, 2017, the AO passed the assessment order in which he made the following additions:

(i) Addition of Rs. 25,02,100/- being the difference between the circle rate of the property and the actual price of the property, added as undisclosed investment under Section 69 of the Act;

(ii) Addition of Rs. 42,470/- being the disallowed expenses;

(iii) Addition of Rs. 10,73,759/- as professional income, added as income from undisclosed source under Section 68 of the Act.

15. Thus, as per the aforesaid assessment order, a total addition of Rs. 38,37,400/- was made to my income for AY 2010-11 and a demand of Rs. 20,62,440/- was made out as outstanding taxes.

16. The aforesaid assessment order was appealed against before the CIT (Appeals)-20 on November 1, 2017, within the prescribed time. The matter came up before hearing on August 19, 2019. The submission made before the CIT (Appeals) is annexed herewith at Annexure 8 and further submission made before the CIT (Appeals) on August 26, 2019 is annexed herewith at Annexure 9.

17. The learned CIT (Appeals) passed an order dated August 27, 2019 and deleted the addition of Rs. 10,73,759/-. The fact was that the said addition of Rs. 10,73,759/- as professional income was an absolutely perverse order made by the AO as the said income belonged to FY 2008-09 for which return was duly filed in the concerned assessment year.

18. However, despite the submissions made, the Ld. CIT (Appeals) did not delete the other erroneous additions made to my income and sided with the decision of the AO. Now, this appeal has been filed to assail the assessment order made by the AO and the order of CIT (Appeals) to challenge:

(i) The addition of Rs.25,02,100/- being the difference between the circle rate of the property and the actual price of the property, added as undisclosed investment under Section 69 of the Act;

(ii) The addition of Rs.42,470/- being the disallowed expenses;

(iii) The interest levied u/s 234B on the alleged tax computed by the AO.

SUBMISSIONS

19. Starting with the impugned assessment order, the first paragraph therein states "To examine the transaction made by the assessee opportunity was given to the assessee by issuing of verification letters". It is hereby submitted that no verification letters whatsoever have ever been served upon me by the AO. In fact the same contention was taken by the Assessing Officer in the proforma for obtaining approval of the CIT/AddI CIT Sec 151(2) for initiating proceeding u/s 148. The same is enclosed as part of Annexure 5. In point 11 therein, it was stated that opportunity was given to the assessee by issuing verification letters. In my reply dated August 24, 2017,1 had categorically, in paragraph 7, strongly refuted the issuance of any verification letters. The said letter is annexed at Annexure 6. The Assessing Officer has nowhere in his order mentioned or countered my refusal on issuance of verification letters.

20. It has further been stated in the said order that notices under Section 143(2)/142(1) were issued to me. It is hereby acknowledged that the said notices were issued to me vide letter dated July 14, 2017 which were dispatched to me on August 8, 2017 and received by me only on August 9, 2017. Vide my letter dated August 24, 2017, I had raised objections on the issuance of the aforesaid notices, which have not been mentioned in the said order and those objections have not been addressed. Thus the order passed is non speaking and bad in law where the learned AO has shied away from responding to the objections raised.

21. The point which is being made over here is that the entire process of assessment was vitiated with the sole purpose of causing harassment, mental agony and for other reasons best known to the AO.

22. The AO in its order has alleged that I had made undisclosed investments u/s 69 of the Act. Section 69 of the Act is reproduced below:

> *"**69. Unexplained Investments.** Where in the financial year immediately preceding the assessment year the assessee has made*

investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year."

23. It is submitted that the required ingredients of S. 69 are not met to make out the case against me. The law requires the following conditions to be met under S. 69:

(i) The assessee should have made investments which are not recorded/disclosed;

(ii) The assessing officer should have enquired from the assessee the nature and source of investments; and

(iii) In response to such enquiries, either the assessee offers no explanation; or the explanation offered in the opinion of the AO is not satisfactory.

24. The first ingredient of Section 69 mentioned above is not met as the property was not a hidden investment. The property was purchased through a registered document which is publicly available for inspection and my PAN was mentioned on the sale deed. Had it been a hidden investment, how would the tax department become aware of the transaction. Furthermore, the rents received from the property have been shown as income in the very same ITR for which the income has been assessed by the AO. Hence, in absence of provisions of S. 69 being met, the addition made by the AO as income from undisclosed investment u/s 69 of the Act may be deleted.

25. The other ingredient of Section 69 is that either the assessee offers no explanation or the explanation offered is not to the satisfaction of the AO. The AO in its order has mentioned that the assessee had submitted proofs of payment thus admitting that assessee had offered explanation. In that case, the AO should have expressed his opinion as to how the explanation offered was not satisfactory. The AO has not expressed any such opinion.

Hence, in absence of provisions of S. 69 being met, the addition made by the AO as income from undisclosed investment is an unreasoned Order, which may be set aside.

26. The aforesaid submissions were made before the CIT (Appeals) as well but the same were very conveniently ignored. Reliance is also being placed on the order of this Hon'ble Bench in the case of Devinder Kumar Vs. DCIT, Central Cir 10, New Delhi (ITA No. 1141(Del) 2008), where a similar explanation to Section 69 of the Act was given in the said order. As per paragraph 16 of the said judgment it was stated:

> *"**16. A perusal of section 69 of the Act shows that it is only where the assessee has made investments which are not recorded in the books of account and the assessee has no explanation to offer about the nature and source of the investments, or where the explanation offered by the assessee is not found by the AO to be satisfactory, that the value of the investments may be deemed to be the income of the assessee.** It is for the purpose of such 'deeming', that a reference u/s 142A may be made by the AO to the Valuation Officer, to make an estimate of the value of the investment. However, **the first and foremost requirement of section 69 is that the investment in question has not been recorded by the assessee in his books of account.** In the present case, it is not the case of either of the Authorities below, that the value of the investment in the purchase of the property at ' 2,00,000/- has not been recorded by the assessee in his books of account. Rather, the recital in the assessment order is as follows:-*
>
> > *"During the year, the assessee purchased a shop at No.1622 and 1623 (half portion) at Chandraval Road, Subzi Mandi, Ghanta Ghar, Delhi. It was stated by the assessee that he has invested only a sum of ' 2,00,000/- in purchase of the portion of the shop under reference. The investment in the purchase of the property was considered low as compared to the prevailing market price for such kind of property. A reference u/s 142A*

was made to the Valuation Officer of the Income Tax Department ""

Emphasis Supplied

27. Similar to the case cited above, in the given scenario, it is not the case of the AO that the purchase of the property was not recorded or was concealed. Infact, the rental receipts from the property were added to the income in the very same ITR which has been assessed by the AO vide its impugned order. The same may be referred in Annexure 4 where my ITR for AY 2010-11 has been annexed.

28. The AO has in its impugned order mentioned that the assessee has paid stamp duty calculated on Rs. 80,02,100/- whereas the assessee has declared that the said property has been purchased for a consideration of Rs. 55,00,000/-. The said paragraph further states:

> *"Vide submission dated 24th August 2017 the assessee **submitted evidence with regard to only 55.00.000/-** only whereas the circle rate of the property on which stamp duty has been paid is of Rs. 80,02,100/-. Hence a sum of Rs. 25,02,100/- the difference of Rs. 80,02,100 and Rs. 55,00,000/- is added back to the income of the assessee as income from undisclosed investment u/s 69 of the I.T. Act."*

Emphasis Supplied

*29. It may be noted that the AO himself had admitted and confirmed that the assessee submitted evidence with **regard to only Rs. 55,00,000/-.** The evidence is only with respect to Rs. 55,00,000/- because that is what has actually been paid to the seller; nothing less nothing more. No payment whatsoever has been made for purchase of property over and above Rs. 55,00,000/-. Any further payment is only a figment of imagination. If it is the case of AO, that the money paid against purchase of property is more than the declared value, then the burden of proof is on the AO to prove the payment of such money under Section 101 of the Indian Evidence Act.*

30. The Hon'ble Bench may also refer to the leading judgments where it has been categorically been held that in absence of any incriminating

evidence that anything has been paid over and above the stated amount, the primary burden of proof is on the revenue. The said judicial precedents are as follows:

*(i) In case of **KP Verghese Vs ITO** (AIR 1981 SC 1922), the Supreme Court held that the burden to prove that the consideration for the transfer of property has been understated, or that the full value of the consideration in respect of the transfer has not been shown is on the revenue. The Hon'ble Apex Court also held in the said judgment that:*

> *"Moreover, to throw the burden of showing that there is no understatement of the consideration, on the assessee would be to cast an almost impossible burden upon him to establish the negative, namely, that he did not receive any consideration beyond that declared by him."*

In the given context, it be read "he did not pay any consideration beyond that declared by him."

*(ii) The above ratio has further been followed by the Delhi High Court in the cases of **Commissioner of Income Tax Vs. Naresh Khattar (HUF)** (ITA No. 327 of 2002 decided on 28.01.2003)*

*(iii) In the case of **Commissioner of Income Tax Vs. Mahesh Kumar** (ITA 1191 and 1192 of 2010 decided on 20.8.2010), the Delhi High Court, while referring to the above Supreme Court judgment and rejecting the reliance upon the valuation given by the DVO held:*

> *"8. It is settled law that the primary burden of proof to prove understatement or concealment of income is on the revenue and it is only when such burden is discharged that it would be permissible to rely upon the valuation given by the DVO."*

(iv) In the case of Commissioner of Income Tax Vs. Naveen Gera (ITA 736 (Del) of 2010 decided on 17.8.2010), the Delhi High Court while agreeing with the counsel of the assessee held:

"We are also in agreement with the submission made by Mr. Piyush Kaushik that it is settled law that in the absence of any incriminating evidence that anything has been paid over and above than the stated amount, the primary burden of proof is on the Revenue to show that there has been an understatement or concealment of income."

(v) The following cases decided by the Hon'ble New Delhi bench of ITAT may further be delved as they deal with the issue in detail and also rely on other established precedents:

a. ***Daljeet Singh Vs. ACIT (ITA No. 771/Del/2015 decided on 8.5.2015)***

b. Deputy Commissioner of Income Tax Vs Deepak Mittal *(ITA No. 4459/Del/2010 decided on 20.4.2012)*

c. ***Devinder Kumar Vs. DCIT, Central Cir 10, New Delhi*** *(ITA No. 1141(Del) 2008)*

d. ***DCIT Vs. Abhinav Kumar Mittal*** *(ITA No. 4460/Del/2010 decided on 29.6.2012)*

e. ***Assistant Commissioner of Income Tax Vs. Asha Kataria*** *(ITA Nos. 3105, 3106, 3107/Del/2011 decided on 20.5.2013*

(vi) The Hon'ble New Delhi Bench of ITAT has also in a very recent order passed on 27.02.2020, in the case of Rajendra Kumar Vs DCIT (ITA Nos. 1959/Del/2017 decided on 27.2.2020, held:

"Further nothing has been brought on record to prove that the assessee has paid anything extra over and above the value of agreement in any other form of consideration. Nothing has been brought on record that money has emanated from the assessee's coffers. The sole reliance in the instant case is the basis of estimates made by the DVO in the valuation report. It has been held in various decisions that additions cannot be made on the basis of surmises and conjectures in the absence of any tangible material on record. Since in the instant case assessee has purchased old tenanted properties situated in slum areas, filed copies of sale deeds of properties in the

similar vicinity at about the same time which were sold at price below the circle rate, also filed valuation report of registered valuer and the seller of the properties has appeared before the AO and has confirmed to have sold the property at the price mentioned in the sale deed only and there is no material available before the revenue authorities that assessee has paid anything more than what is mentioned in the sale deed, therefore, we are of the considered opinion that no addition is warranted in the instant case by invoking the provisions of section 69 of the Act, IT 1961. We, therefore, set aside the order of the CIT(A) and direct the AO to delete the addition."

31. Reliance may also be made on the following cases where Section 50C of the Act read with Section 69 has been held not to be applicable on similar factual matrix as the present case:

(i) ***Anilesh Enterprises Private Limited Vs. Income Tax Officer*** *(Income Tax Appeal No. 2044/Del/2010 decided on 9.7.2010)*

(ii) ***ITO New Delhi Vs. Sunil Kumar Babbar*** *(Income Tax Appeal No. 2251/Del/2013) decided on 11.4.2014*

(iii) ***ACIT, New Delhi Vs. Concept Clothing*** *(Income Tax Appeal No. 2785/Del/2015 decided on 11.9.2018)*

32. The learned CIT (Appeals) has while dealing with this issue and without discussing or understanding the factual matrix from the assessee has made very generic observations on the property which is situated in a group housing project "Mahagun Mansion Phase I". The observations have been made in paragraph 6.1.3 and 6.1.4 of the order of CIT (Appeals), which is placed at Annexure 1 and reproduced below:

"6.1.3. I have perused the order of the Assessing Officer and the submission of the appellant. It is a fact that the property which the appellant claims to have purchased for Rs. 55,00,000/- has a circle rate of Rs.80,02,100/- and for registration of the same the appellant has paid stamp duty amounting to Rs. 5,60,400/- applicable for value of the property at Rs.80,02,100/-. The property is a residential property bearing no. residential Flat No. 1127, 11th floor, Block-

Siena, Type -Duplex in Mahagun Mansion Phase-1, on plot No. 1/5, Vaibhave Khand, Indirapuram, Ghaziabad, U.P. and was purchased by the appellant from M/s. Mahagun (India) Pvt. Ltd. It is interesting to know that the circle rate of the property was Rs. 80,02,100/- at the time of purchase by the appellant. The circle rate is basically the rate fixed by the authorities taking into consideration the similar houses sold on the price. Thus, the similar Duplex Flats constructed by M/s. Mahagun (India) Pvt. Ltd. in that area must have been sold at Rs. 80,02,100/-. Generally, the builders do not differentiate in selling their similar kind of flats located in the same area. Therefore, there is always a reason to believe that there is a discrepancy in purchasing the flat at Rs. 55.00,000/- from the same builder when the builder had sold the similar flats at Rs. 80.02.100/

6.1.4. It has been a common practice to pay a portion of the purchase/sale of a house property in cash, which is unaccounted. The income tax Act legally emboldened the Assessing Officer to tax the difference between the circle rate and the value declared by the person u/s 50C of the Act. It implies that the income Tax Department has taken cognizance of the concealment in purchase and sale of flats at a lesser price than the circle rate. It may also be understood that the circle rates are fixed not only to enable the Govt, to earn higher stamp duty but also to establish an equilibrium price for similar kind of plots or houses. Thus both the Income Tax Department and the Government of India have recognized that there is concealment of income or investment in this issue and tried to curb it through legal procedures. The provisions of Sec. 56 (2)[vii) of the Act was introduced for the similar purpose though came into effect from 1st Oct.. 2009. But that does not imply that all the transactions happened before 1st. Oct. 2009 can be taken as correct and justified. The provisions of Sec. 69 of the Act are more inclusive and expansive. The section talks about investments which are not recorded in the books of accounts or which have not been declared by the assessee. Here the Assessing Officer has got statutory evidence that the value of the property is Rs.

80,02.100/- as the similar property from the same builder must have been sold at that value. There is therefore no reason why the builder should sell the property to the appellant at a lesser price. Only because the Sec. 56(2(vii) of the Act came into effect from 1st. Oct.. 2009. it does not validate the unexplained investments made before that time. I therefore agree with the finding of the Assessing Officer and confirm the addition made by him u/s 69 of the Act."

Emphasis Supplied

33. The fact is that the said flat is the largest flat in the entire project and the only flat of its kind. While the entire project was sold out and the possession was handed over way back in 2007, this flat was not allotted to anyone and was retained by the developer for itself. It was only because of the global financial crisis which cascaded with the fall of Lehman Brothers in September 2008, and led to a slump in the real estate market (including in India) and the realtors here were devoid of liquidity. A few news articles have been annexed at Annexure 10 to bring to focus the events which happened then. The transaction with the developer who is the seller of the property in the current case, also happened in the backdrop of the global financial crisis. All the real estate developers were facing liquidity crunch with falling sales, rising costs of funds and looming payment obligations and Mahagun India Private Limited was no exception.

34. Important to mention that no enquiry whatsoever was ever made with the seller in the given case by the AO. The AO and the CIT (Appeals) went on to make their own assumptions on the valuation of the property without any proof.

35. The price settled between the parties was a commercial bargain and a negotiated price and the purchaser should not be penalized for negotiating a good deal for himself. As far as the circle rate is concerned, it has been held by the Apex Court and various other courts in its judgments that circle rate is only a guidance number and not the final price and transactions may happen over and below the circle rate. The judicial precedents include:

(i) ***Ramesh Chand Bansal & Ors. vs. District Magistrate/Collector*** *(1999) 5 SCC 02;*

(ii) ***R. Sai Bharathi vs. J. Jayalalitha & Ors.*** *(2004) 2 SCC 9;*

(iii) ***Govt, of NCT of Delhi Collector of Stamps Vs. CTA Apparels Private Limited*** *(LPA No. 278/2019 Delhi High Court decided on 15.11.2019)*

36. Infact, in the case of Govt, of NCT of Delhi Collector of Stamps Vs. CTA Apparels Private Limited, the division bench of the Hon'ble Chief Justice D.N. Patel and Justice C Hari Shankar, while relying on the aforementioned decisions and agreeing with the fact that the circle rate not being the final value of the property and the valuation of the property is dependent on varieties of factors which include:

(i) The existing market factors:

(ii) The urgency of the sale by the owner of the property.

37. The observations made by learned CIT (Appeals) in paragraph 6.1.3 and 6.1.4 (referred to in paragraph 32 supra) reeks of prejudiced mindset without making any enquiries or discussions on how and in what circumstances the transaction got consummated. The Ld. CIT (Appeals) guided by her own fanciful thoughts completely bereft of the ground realities passed an assumptive order which needs to be set aside.

38. Again referring to the case of ***Devinder Kumar Vs. DCIT, Central Cir 10, New Delhi*** *(ITA No. 1141(Del) 2008), this Hon'ble Bench while commenting on observations made by CIT (Appeals), similar to the ones made by CIT (Appeals) in the impugned order held:*

> *51. Thus, though the Id. CIT(A) has observed that the assessee cannot contend that the revenue should accept whatever consideration has been shown by him in the books by disregarding the circumstantial evidence which is weighing against him, it has not been brought out by the Id. CIT(A) as to what circumstantial evidence is existing against the assessee. Moreover, as noted, in view of the direct documentary evidence in the shape of the sale deed entered into by the assessee*

remaining unhinged, there is no question of going into any circumstantial evidence and, even otherwise, there is no circumstantial evidence weighing against the assessee, as we have discussed above. Therefore, the value of the transaction of purchase of property, as shown in the sale deed, has to be accepted as it is.

39. In the given case as well, the CIT (Appeals) has made guided by her own surmises and conjectures and such pre-conceived notions need to be set aside.

40. Also, to add that in the cases referred above, where it has been submitted that the burden of proof lies on the revenue to prove that any additional amount has exchanged hands between the buyer and the seller, in many of those cases, the valuation report prepared by the DVO has not been admitted a good enough proof to show any hidden consideration. On similar matrix, the circle rate, should not be interpreted or inferred as any proof for payment of any hidden amount. One may further refer to the judgment of the Karnataka High Court in the case of ***S.S. Jyothi Prakash Vs. The Additional Commissioner of Income Tax*** *(ITA No. 460/2010 decided on 7.6.2016) in which the Hon'ble Karnataka High Court, held:*

> *"18. Examining the matter further on facts, in the present case, it appears that it is not a case of the revenue that there was any independent or corroborative material for consideration paid or received in addition to than mentioned in the sale deed. The basis of the addition is only valuation report of the District Registrar under the Stamp Act and the Departmental valuer. As such, there is no independent material which had come on record for such purpose. The payment of additional stamp duty may be on the basis of the valuation of the valuer of the stamp Act authority but same ipso facto cannot be said to be a valid ground to initiate the proceedings under Section 69 of the Act or to invoke power under Section 69 of the Act on the premise that additional consideration was paid or received. Further, if such could not be the basis, subsequent valuation report would also not a ground. In the absence of any independent material, the report of the valuer could not be the basis for making addition.*

Under such circumstances, we find that the addition made by the Assessing Officer and further modified by the CIT (Appeal) as well as by the Tribunal cannot be sustained."

41. It is important and much relevant to note that in deciding the above cases, the Karnataka High Court, referred to the decided cases of the Delhi High Court, and in those precedents, the Delhi High Court had held that until there is some other evidence to indicate that extra consideration had flowed in the transaction of purchase of property, the report of the DVO cannot form the basis of any addition on the part of the revenue.

42. Further to add that as held in the case of ***ITO Vs. Murti Aggarwal*** *by the New Delhi Bench of the Hon'ble ITAT (ITA No. 1828/Del/2014) decided on 6.4.2016, it has also held that the stamp duty value cannot be extended to invoke the provisions of Section 69 as follows:*

"Merely because for the purpose of stamp duty, property is valued at a higher cost, it cannot be said that the assessee has made more payment than what is stated in the sale deed. The Hon'ble Allahabad High Court in Dinesh Kumar Mittal v. ITO [1992] 193 ITR 770 quashed the order of authorities below, wherein half of the difference between the amount paid and the value for purposes of stamp duty was added as income of the assessee by the Assessing Officer. It is held that there is no rule of law to the effect that the value determined for the purposes of stamp duty is the actual consideration passed between the parties to the sale. It is worthwhile to mention here that section 69 is a legal fiction whereby investment in an asset is treated as income if it is not disclosed in the regular books of account. No further legal fiction from elsewhere in the statute can be borrowed to extend the field of section 69. This fiction cannot be extended any further and, therefore, cannot be invoked by the Assessing Officer to tax the difference in the hands of the purchaser."

43. The Bench may further note that the way the matter was dealt in a prejudiced manner by CIT (Appeals) in order to favour the revenue. The same is evident the observations made in paragraph 6.1.5 where it is mentioned:

"6.1.5 The appellant had stated that even if the additions are sustained the same should be distributed between his father and him as the property has been purchased by both. During the assessment proceedings, the appellant has not submitted any details regarding the portion of investment by his father and the source of such nor he had submitted the same during appeal hearing. In the absence of such it is not possible to assign a part of the investment as unexplained investment u/s 69 of the Act to the father of the appellant."

44. Each and every document and explanation was provided to show details regarding the portion of investment made by me and my father and the details were provided to the AO and attached with the Appeal but it is surprising as well as shocking that the learned CIT (Appeals) did not even look at the documents which had been part of the assessment proceedings. Reference may be made to the submissions made both before the AO and the CIT (Appeals) at Annexures 6 and Annexure 7.

45. Further, in the context of this case, it is important to mention that the transaction of sale of the property in the case under consideration took place on April 1, 2009. There was no provision either existent or proposed at that time, which may tax the notional difference between the circle rate and transaction value. Pursuant to the budget presented before the Parliament on July 6, 2009, Section 56 was amended by Finance Act, 2009 by inserting a new clause (vii) in sub-section (2) to inter alia provide if the value of any property is less than the stamp duty value by an amount exceeding Rs. 50,000/-, then to the extent the stamp duty value exceeds the actual consideration, the same shall be included in the computation of total income of the recipient. Section 56 of the Income Tax Act as applicable prior and pursuant to the Finance Act, 2009 is enclosed herewith in Annexure 8.

46. It is hereby submitted and clarified that the said clause (vii) in sub-section (2) of Section 56 came into effect from October 1, 2009 and were to apply to transactions on or after October 1, 2009. This has been clarified by the Explanatory Notes to the Provisions of the Finance (No. 2) Act, 2009

issued vide Circular No. 5/2010 dated June 3, 2010 by the Central Board of Direct Taxes. The relevant excerpts of the said circular are enclosed in Annexure 8. Thus the provisions of Section 56(2)(vii) could not be made applicable on retrospective basis.

47. It is submitted that had the parliament of the view that Section 69 and its associated sections were appropriate taxing provisions to tax the notional difference between the transaction price and the circle rate, there was no reason to amend Section 56 of the Act. Hence, amendment to Section 56 is also testament to the fact that applicability of Section 69 to tax the notional difference between the circle rate and actual consideration, without any evidence of payment over and above that prescribed in the sale deed, is bad in law.

48. It is humbly submitted that as per the principles laid out by various judicial pronouncements, the Income Tax Act is a taxing statute and need to be strictly interpreted. While it has already been said that the burden of proof of something being paid in excess of the transaction value lies on the revenue, it is also been submitted that in absence of any clear provision to tax the difference between the circle rate and the actual transaction value, the notional amount cannot be taxed. Justice Bhagwati in the case of ***A. V. Fernandez vs. State of Kerala,*** *[AIR 1957 SC 657] held:*

> *"In construing fiscal statutes and in determining the liability of a subject to tax one must have regard to the strict letter of law. If the revenue satisfies the court * that the case falls strictly within the provisions of the law, the subject can be taxed. If, on the other hand, the case is not covered within the four comers of the provisions of the taxing statute, no tax can be imposed by inference or by analogy or by trying to probe into the intentions of the legislature and by considering what was the substance of the matter."*

49. I would like Hon'ble Bench to refer to the latest Supreme Court judgment in the matter of ***Commissioner of Customs (Import), Mumbai Vs. M/s Dilip Kumar and Company and Ors*** *(Civil Appeal No. 3227 of 2007 decided on 30.7.2018) where the Supreme Court has espoused that*

the taxing statues need to be plainly and simply interpreted and the assessee to benefit from any ambiguity in the law.

PRAYER

In the light of the aforesaid facts and submissions, it is humbly requested that:

(a) the addition of Rs. Rs. 25,02,100 (Rupees twenty five lakhs two thousand and one hundred only) as income in the hands of the assessee, basis as income from undisclosed investment under Section 69 of the Income Tax Act, 1961 be deleted;

(b) The interest levied u/s 234B on the total tax computed by the AO be deleted;

(c) Any addition emanating from the aforesaid additions or levies be held to be set aside and inapplicable;

(d) Pass any other or further order as this Hon'ble Bench may deem fit or proper in the interests of justice."

6. On the contrary, Ld. Sr. DR opposed these submissions and supported the orders of the authorities below. Ld.Sr.DR submitted that the assessee himself has paid a higher stamp duty therefore, in terms of section 50C of the Act, the AO was justified.

7. Further, the assessee filed written arguments. For the sake of clarity, the written arguments are reproduced as under:-

"This submission is being made to put on record the oral arguments made by the assessee before the Hon'ble Bench of the Income Tax Appellate Tribunal during the proceedings held on January 3, 2022. These written arguments do not substitute the original written submissions made by the assessee on August 5, 2021 and September 2, 2021 and these written arguments form part of the written submissions already filed before the Hon'ble Income Tax Appellate Tribunal.

The following was mentioned during the proceedings by the Assessee:

1. *The matter is about the addition of the notional difference between the circle rate and the purchase price of a property as income in the hands of the assessee. The transaction happened during the early months of 2009.*

2. *The Assessing Officer ("AO") had in its reassessment proceedings passed a non-speaking order without explaining how the above addition could have been made as undisclosed investment under Section 69 of the Income Tax Act, 1961. The AO made no independent enquiry on the transaction. As per the file of the proceedings before the AO, which were inspected by the Assessee, it was found that the AO, wrote only two letters:*

   (a) Letter to HDFC Bank seeking bank statement for Financial Year 2009-10; and

   (b) Letter to Sub-Registrar IV, Ghaziabad, seeking copy of the sale deed in relation to the transaction registered on 1.4.2009.

3. *In fact, the AO had in its "reasons to believe" provided to the Assessee had mentioned that opportunity was given to the assessee by issuing "verification letters". The AO has also mentioned the issuance of "verification letters" in its Assessment Order. The fact is that no "verification letters" had ever been issued by the AO. This fact was pointed to the Hon'ble Bench in the previous proceedings held on August 5, 2021 and the Bench had then ordered the requisition of the records of the Assessment Officer. The records have now been brought before the Bench and it should be evident that the AO had not even issued the verification letters it has so clearly mentioned at the start of his Assessment Order. The highhandedness of the AO was to the extent that in his assessment order, he added the income of the year previous to the year which was in consideration. This was so perverse and apparent on the face of it that the CIT (Appeals) had no option but to delete the said addition.*

On the very basis of irregularity, procedural lapses and impropriety in conduct, the impugned order of the AO and the CIT (Appeals) should be set aside.

4. *The learned DR then lead the bench to refer to page 13 of the order of CIT (Appeals) and read paragraph 6.1.3 of the order of the CIT (Appeals). In the said paragraph, the CIT (Appeals) had presumed without citing any proof or facts, that the builder has sold similar flats at the circle rate. This point was rebutted by the Assessee as Assessee had, based on the instructions received from the Hon'ble Bench on August 5, 2021, had submitted to the Hon'ble Tribunal on September 2, 2021, certified copies of the sale deeds around the time which included the sale deed made by the builder Mahagun India Private Limited and other builders in the vicinity. The ratio of the transaction value to the circle rate in the case of the assessee was 0.69. The certified copies submitted by the assessee has this ratio, as low as 0.50.*

5. *There was a further mention of applicability of Section 50C and Section 56 to the matter. The assessee pointed out that he is a purchaser and Section 50C is applicable to the sellers and not the purchasers. It was also mentioned that as far as Section 56 is concerned, the same is not applicable as the deeming provision in Section 56 was not there when the sale deed was registered. The provision was only introduced in the budget announced later that year and the said provision does not apply retrospectively.*

It is hereby clarified that the deeming provision of Section 56 were announced in the budget speech on July 6, 2009 and became applicable "without retrospective effect" from October 1, 2009 while the sale deed was registered on April 1, 2009.

For the assistance of the Hon'ble Bench, it is hereby mentioned that in an array of decided cases, it has been held that Section 50C is not applicable to purchase transactions. These case laws have already been filed as part of the original submissions and may be referred to as follows:

S. No.	Case Details	Page No. of the Case in	Reference in compilation
1.	Rajender Kumar Vs. DCIT, Circle 29(1) (ITA 1959/Del/2017 decided by Hon'ble ITAT Delhi on 27.2.2020)	146	Case notes on page 146. Paragraph 13 at page 151.
2.	Anilesh Enterprises Private Limited Vs. Income Tax Officer (Decided by Hon'ble ITAT Delhi on 9.7.2010)	153	Case notes on page 153. Paragraph 4 at page 158.
3.	ITO Ward 33(2), New Delhi Vs. Sunil Kumar Babbar (ITA 2251/Del/2013 decided by Hon'ble ITAT Delhi on 11.4.2014)	159	Paragraph 6 at pagel63
4.	ITO Vs. Murti Aggarwal (ITA 1828/Del/2014 decided by Hon'ble ITAT Delhi on 6.4.2016)	235	Paragraph 4 at page 239

It is humbly prayed that basis the above, the Hon'ble Tribunal may please delete the impugned addition made by the AO and sustained by CIT(Appeals).

6. One of the points which was mooted and explored during the proceedings was the reference of the matter for valuation. It is hereby submitted that such an exercise shall be futile and without any purpose. The assessee has already placed on record certified copies of sale deeds of contemporaneous time where properties in the vicinity have been sold at far lower valuation than the valuation of the transaction undertaken by the assessee.

Further, it has been held in decided cases that the primary burden of proof is on the revenue to prove that money has been paid over and above the specified transaction value and only after it being proved, the valuation reports may be referred to. No incriminating evidence or proof has been placed on record by the AO or the CIT (Appeals) whereby they could prove that the assessee had paid any money over and above the transaction value as mentioned in the sale deed. In the decided cases, it has been held that even a reference to valuer in absence of incriminating evidence is invalid, much less reliance on such valuation reports.

The Hon'ble Bench may refer to the following case laws which are part of the original compilation:

***S.** No.*	***Case Details***	***Page No. of the Case in Case Law***	***Reference in compilation***
1.	*Devinder Kumar Vs. DCIT, Central Cir. 10 New Delhi* *(ITA No. 1141, 1142/Del/08 decided by Hon'ble ITAT, Delhi on*	*1*	*Paragraph 13 onwards at page 12.*
2.	*Commissioner of Income Tax Vs. Mahesh Kumar* *(Decided by Hon'ble High Court of Delhi on 29.8.2010)*	*68*	*Paragraph 8 onwards at page 70.*
3.	*Commissioner of Income Tax Vs. Naveen Gera* *(Decided by Hon'ble High Court of Delhi on 17.8.2010)*	*71*	*Case Notes on page 71* *Paragraph 9 at page 73*
4.	*Daljeet Singh Vs. ACIT, Central Circle 17* *(ITA No. 771/Del/2015 decided by Hon'ble ITAT, Delhi on 18.5.2015)*	*74*	*Paragraph 11 at page 79* *Paragraph 12 at page 79*
5.	*Dy. Commissioner of Income Tax Vs. Deepak Mittal* *(ITA No. 4459(Del)2010 decided by Hon'ble ITAT, Delhi on 20.4.2012)*	*84*	*Paragraph 22 at page 106*
6.	*DCIT, Central Circle 20 Vs. Abhinav Kumar Mittal* *(ITA No. 4460/Del/2010 decided by Hon'ble ITAT, Delhi on 29.6.2012)*	*108*	*Case notes on page 108* *Paragraph 5.2 and 5.4 at page 115 and 116 respectively*
7.	*Rajender Kumar Vs. DCIT, Circle 29(1)* *(ITA 1959/Del/2017 decided by Hon'ble ITAT Delhi on 27.2.2020)*	*146*	*Second part of Paragraph 13 at page 152 which starts at page 151.*
8.	*S.S. Jyothi Prakash Vs. The Addl Commissioner of Income Tax* *(Decided by Hon'ble High Court of Karnataka on 7.6.2016)*	*228*	*Paragraph 14 at page 232 and Paragraph 16 at page 233*

It is humbly prayed that basis the above, the Hon'ble Tribunal may please delete the impugned additions made by the AO and sustained by CIT(Appeals) and the prayer made in the submissions filed on August 5, 2021, be allowed."

8. I have heard the contentions of both parties and perused the material available on record. It is the contention of the assessee that the action of the authorities below is highly arbitrary, unjust, illegal and contrary to the settled principle of law. The issue involved in this appeal is regarding the taxability of the differential amount of Rs.10,73,759/- between the registered Sale Deed and the value adopted by the Stamp Valuation Authority. It is contended by the assessee that the AO has grossly failed to make enquiries regarding fair market value of the transaction. He contended that adopting the value at a higher figure on the basis of circle rate would not *per se* make the assessee liable for tax. It is further contended that even otherwise also the AO has wrongly applied the provision of section 50C of the Act as section 50C of the Act was not applicable on the purchaser of the property. The assessee being purchaser of the property, value adopted by Stamp Valuation Authority cannot be the basis for making addition by the AO. He further submitted that even mentioning of section 56 of the Act is mis-conceived as that provision came on the statute subsequently.

9. It was further stated by the assessee that comparable transactions were also provided to the authorities below that reflected the fair market value lower than the stamp valuation/circle rate. I have given thoughtful consideration to the submissions made by the assessee. There is no dispute with regard to the fact that the assessee is the buyer of the property. It is also not disputed that the basis for making addition is there being difference between the sale consideration disclosed in the registered Sale Deed and the value adopted by the

Stamp Valuation Authority thereby, the assessee had made payment of stamp duty amounting to Rs.5,60,400/-. It is seen from the assessment record that the assessing authority has made addition by observing as under:-

> *"During the year under consideration the assessee along with his father Sh. Balram Manohar Rastogi (PAN: AAEPR8998Q) has purchased a residential property bearing no. Residential Fiat Space No. 1127, 11th Floor, Block Siena, Type Duplex in Mahagun Mansion Phase-I on Plot No. 1/5, Vaibhav Khand, Indirapuram, Ghaziabad. Uttar Pradesh. From M/s Magaun (India) Pvt. Ltd. Through its authorized signatory Sh. Pradeep Sharma, S/o Late Sit. P. K. Sharma R/o A-19. Scctor-50, Noida.*
>
> *From the perusal of copy of instrument i.e. registered deed of the property it is seen that the assessee has paid stamp duty amounting to Rs. 5,60,400/- which has been calculated on Rs. 80,02,100/- whereas during the course of assessment proceedings, the assessee has declared that the said property has been purchased by him for a consideration of Rs. 55,00,000/-. Vide submission dated 24th August 2017 the assessee submitted evidence with regard to only 55,00,000/- only whereas the circle rate of the property on which stamp duty has been paid is of Rs. 80,02,100/-. Hence, a sum of Rs, 25,02,100/- the difference of Rs. 80,02,100 and Rs.55,00,000/- is added back to the income of the assessee as income from undisclosed investment u/s 69 of the I. T. Act. Penalty proceedings u/s 271(1)(c) is initiated separately for furnishing inaccurate particulars of income."*

10. From the above finding, it is clear that the AO has neither mentioned section 50C of the Act nor about section 56 of the Act. However, Ld.CIT(A) in the impugned order has observed as under;_

> *6.1.4. "It has been a common practice to pay a portion of the purchase/sale of a house property in cash, which is unaccounted. The income tax Act legally emboldened the Assessing Officer to tax the difference between the circle rate and the value declared by the person u/s 50C of the Act. It*

implies that the income Tax Department has taken cognizance of the concealment in purchase and sale of flats at a lesser price than the circle rate. It may also be understood that the circle rates are fixed not only to enable the Govt, to earn higher stamp duty but also to establish an equilibrium price for similar kind of plots or houses. Thus both the Income Tax Department and the Government of India have recognized that there is concealment of income or investment in this issue and tried to curb it through legal procedures. The provisions of Sec. 56 (2)(vii) of the Act was introduced for the similar purpose though came into effect from 1st Oct, 2009. But that does not imply that all the transactions happened before 1st, Oct., 2009 can be taken as correct and justified. The provisions of Sec. 69 of the Act are more inclusive and expansive. The section talks about investments which are not recorded in the books of accounts or which have not been declared by the assessee. Here the Assessing Officer has got statutory evidence that the value of the property is Rs. 80,02,100/- as the similar property from the same builder must have been sold at that value. There is therefore no reason why the builder should sell the property to the appellant at a lesser price. Only because the Sec. 56(2(vii) of the Act came into effect from 1st, Oct., 2009, it does not validate the unexplained investments made before that time. I therefore agree with the finding of the Assessing Officer and confirm the addition made by him u/s 69 of the Act.

6.1.5 The appellant had stated that even if the additions are sustained the same should be distributed between his father and him as the property has been purchased by both. During the assessment proceedings, the appellant has not submitted any details regarding the portion of investment by his father and the source of such nor he had submitted the same during appeal hearing. In the absence of such it is not possible to assign a part of the investment as unexplained investment u/s 69 of the Act to the father of the appellant."

11. I find that Ld.CIT(A) has affirmed the view on the basis that the AO is empowered to make addition in respect of difference between the circle rate and value declared by the assessee u/s 50C of the Act. The observation of Ld.CIT(A)

that AO has made addition by invoking the provision of section 50C of the Act does not find mention in the assessment order. Therefore, looking to the entirety of the fact and the case laws relied by the assessee, the impugned addition cannot be sustained. **Firstly,** that the assessing authority made addition u/s 69 of the Act and the First Appellate Authority treated the same addition as made by invoking the provision of section 50C of the Act. There is a contradictory finding by the authorities below. **Secondly,** the assessee has provided comparable instances that demonstrate the fair market value was lower than the circle rate. I find merit into the contention of the assessee that circle rate *per se* could not be a fair market value for the property in question when the assessee has demonstrated that similarly situated properties were sold at a lower price. Moreover, the AO has not referred the issue of valuation of the property to the DVO. Hence, the AO is directed to delete the addition. Thus, Ground Nos. 1 to 6 raised by the assessee are allowed.

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

Order pronounced in the open Court on 20th May, 2022.

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

** Amit Kumar **
Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI