

**आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE**

**BEFORE SHRI S.S.VISWANETHRA RAVI, JUDICIAL MEMBER  
AND DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

**आयकरअपीलसं. / ITA No.1904/PUN/2017**  
**निर्धारणवर्ष / Assessment Year: 2014-15**

Shri Shrenik DharamchandKhabiya, Flat No.1, Mitra Prem, Anand Nagar, Gruh Society, Gulmohar Road, Ahmednagar – 414001.	Vs	The Income Tax Officer, Ward-1, Ahmednagar.
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri Pratik Sandhbhor – AR
Revenue by	Shri M G Jasnani – DR
Date of hearing	31/03/2022
Date of pronouncement	13/06/2022

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This is an appeal filed by the Assessee,directed against the order of Id.Commissioner of Income Tax(Appeals)-2, Pune in Appeal No.PN/CIT(A)-2/IOT Wd-1/AN/623/2016-17/228 dated 26.05.2017 for the Assessment Year 2014-15.The Assessee raised the following grounds of appeal:

*“1. On the facts and circumstances of the case the CIT(A) has erred in sustaining the addition of Rs.. 18243128/- u/s 56(2)(vii)(b) of the Income Tax Act, 1961 disregarding the serious objection raised by the appellant about the correctness of the stamp duty valuation.*

*2. On the facts and in the circumstances of the case the CIT(A) has further erred in not appreciating the fact that the Assessing Officer having found favour with the contention of the appellant disputing the stamp duty valuation did make the reference to Asst. Valuation Officer, Solapur and inspite of that Assessing Officer and CIT(A) as well as the appellant could not get the benefit of valuation report of the Asst. Valuation Officer and consequently sustenance of the addition is not legal and correct.*

*The above grounds off appeal may kindly be allowed to be modified, amended, altered etc in the interest of natural justice.”*

3. During the hearing the Assessee filed petition for raising additional grounds of appeal. The ADDITIONAL GROUNDS raised are as under :

*“(I) On the facts and in the circumstances of the case and in law the assessment is bad in law in as much as the assessment proceedings of the appellant were taken up under the ‘Limited Scrutiny’ to verify the Large investment in property, however the assessing officer had made addition on a different ground i.e. u/s 56(2)(vii)(b) for difference in stamp duty value and the purchase consideration of the property, without converting the limited scrutiny into complete scrutiny in violation of CBDT circular no 5/2016 dt. 14/7/20216.*

*(II) On the facts and in the circumstances of the case and in law, ld.CIT(A) has eared in not appreciating the fact that the impugned property is not a capital asset but a trading asset of the appellant and therefore, the provision of section 56(2)(vii)(b) are not attracted.*

*(III) On the facts and in the circumstances of the case and without prejudice to the above grounds of appeal the addition made u/s 56(2)(vii)(b) is invalid as much as the provision of the said section are not attracted in the case of the appellant since the appellant has been defrauded and no transfer actually took place in favour of the appellant as evident form the order of the Hon’ble Court of Civil Judge, Senior Division Pune dated 20/10/2020.”*

3. Brief facts of the case as mentioned in the assessment order and as seen from the copy of the return filed in the paper book, are thatthe assessee filed return of income for the year on 27/09/2014 electronically, showing income from salary of Rs.1,80,000/-, Income from other Sources Rs. 73208/- and Agricultural Income of Rs.9,96,939/-.

3.1. It was observed by the Assessing Officer(AO)that as per the information of AIR, the assessee had entered into a registered Sale Deed on 11/03/2014, vide which the assessee purchased a piece of land of 0.40 hecter R (40000sq ft) at village Dhanori from Mrs.Karam Jit Kour w/o Labh Singh (vendor). Copy of the said Sale deed is part of the paper book. The sale consideration as per the said sale deed was Rs.1,60,00,000/- whereas the

Value for the purpose of Stamp duty was Rs.3,42,43,128/-. The assessing officer(AO) invoked provisions of Section 56(2)(vii)(b) . The assessee requested the AO to refer it for valuation, accordingly the AO referred it for valuation. However, since the valuation report was not received before the statutory time limit to complete the assessment, hence the AO made addition invoking section 56(2)(vii)(b) of the Act.

3.2. Aggrieved by the said addition, the assessee filed appeal before the Commissioner of Income Tax Appeal. The Ld.CIT(A) confirmed the assessment order. Aggrieved by the same the assessee has filed present appeal.

**ADDITIONAL GROUNDS:**

4. The Ld.AR submitted that the case was selected for limited scrutiny, hence, the AO had no power to make addition u/s 56(2)(vii)(b), hence the assessment order is bad in law. The Ld.AR relied on the following case laws:

Jitendra Roopraj Mehta ITA No.440/PUN/2017.

4.1 Per contra the Ld.Departmental Representative (DR) for the Revenue submitted that the case was selected to verify large investment in property as compared to total income. The assessee has purchased land. The AO has made addition about the same land which is referred in the information. The AO has invoked the Section 56(2)(vii)(b) for the impugned land which is referred in the AIR information mentioned in the CASS reasons. The Ld. DR explained that in this case information was received from the Registrar of Land records, regarding purchase of land, the said information was containing name of the vendor, vendee, actual consideration and market value. The said

information was received as AIR i.e Annual Information Report. Based on the information, the Assessing Officer was asked to verify. The AIR information was forwarded by CBDT to the AO. The AO made addition based on the said information. Therefore, there is no merit in the argument of the Ld.AR. The Ld.DR further submitted that the case law relied by the Ld.AR is on the issue of 'Reasons Recorded for Reopening'. Therefore, the said case laws are not applicable as it is distinguishable on facts.

#### **4.2 Decision:**

We have heard both the parties and perused the record. The Additional grounds are admitted as these are legal grounds. There is no dispute on the fact that the case was selected for limited scrutiny to verify large investment in property as per AIR. The AIR means Annual Information Report which contains various kinds of information received by the income tax department. The said information is submitted to the assessing officer for verification by the CBDT. In this case it is an admitted fact that AIR information was received. As explained by the Ld.DR, said information contains name of Vendor, vendee, consideration, market value. The AO was directed by CBDT to verify Large Investment in property mentioned in the AIR. AO has invoked provisions of Section 56(2)(vii)(b). As per said section the actual consideration (investment) by the vendee is market value mentioned in the Sale deed by the Stamp duty authorities. The CBDT had directed the AO to verify the investment. And as per Section 56(2)(vii)(b) the consideration is market value means the actual investment made by the vendee is not the amount mentioned as consideration in the sale deed but the market value

mentioned by the Stamp Authorities for the purpose of Stamp Duty. Thus, when we read it in totality the AO has acted as per the directions of CBDT and has not gone beyond the reason mentioned for limited scrutiny. The CBDT Instruction no.20/2015 mentions scope of inquiry as under :

*iii Scope of Enquiry: Specific issue based enquiry is to be conducted only in those scrutiny cases which have been selected on the parameter(s ) of AIR/CIB/26AS data . In such cases, the Assessing Officer, shall also confine the Questionnaire only to the specific issues pertaining to AIR/CIB/26AS data. Wider scrutiny in these cases can only be conducted as per the guidelines and procedures stated in Instruction No. 7/2014.*

4.3 There is no dispute that the case was selected for limited scrutiny on the parameters of AIR. Therefore, as per the CBDT instruction 20/2015, the AO had power to investigate issue pertaining to AIR information. In this case, it is a fact that AIR information did mention market value of the property. Therefore, AO had rightly invoked provisions of Section 56(2)(vii)(b).

4.4. Hence, the Additional Ground No.“I” is dismissed.

**Other Additional Grounds and Main Grounds:**

5. During the hearing before us, the Ld.AR moved a petition for filling additional evidence. The Ld.AR explained that the said information had not been filed before the AO due to the subsequent developments in the Civil case of the appellant.It is also observed that there were Criminal and Civil proceedings in relations to the impugned land sale. Name of the Vendor and vendee appeared in the FIR. Ld.AR filed copies of the submission made during Civil suit and other documents related to civil suit. Ld.AR also submitted copy of the FIR. We are satisfied that there were sufficient reasons for not filling these documents before the AO. Therefore, we admit these

documents as additional evidence. It is observed that these documents goes to the root of the taxability of impugned sale. However, it is also admitted fact that these documents were not filed before the Assessing Officer. Therefore, we set-aside the order of the Ld.AO, with a direction to do a de-nova assessment. The assessee will be at liberty to file all necessary evidence/documents. The AO will provide reasonable opportunity of hearing to the assessee. However, the Assessee will file all relevant documents at the earliest before the AO during the set aside proceedings, accordingly, the Additional Grounds No.“II”, “III” and Main Ground No’s.1 & 2 are allowed for statistical purpose.

5.1. In the result, appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the open Court on 13<sup>th</sup> June, 2022.

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

**Sd/-**  
**(DR. DIPAK P. RIPOTE)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 13<sup>th</sup> June, 2022/ SGR\*

**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A) concerned.
4. The Pr. CIT concerned.
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, “बी” बेंच, पुणे / DR, ITAT, “B” Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary  
आयकरअपीलीयअधिकरण, पुणे/ITAT, Pune.