

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Shri B.R. Baskaran (AM)

I.T.A. No. 6821/Mum/2019 (A.Y. 2014-15)

Shri Amit Ashokkumar Jain 201, Building No.5 J. Wing, Shree Sai Complex, OppParel S.T. Depo, Mumbai-400 025. PAN : AGXPJ0673K (Appellant)	Vs.	ITO, Ward 21(1)(1) Lalbaug Mumbai-400 012. (Respondent)
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Assessee by	Ms. Dinkle Hariya
Department by	Ms. Naina Krishnakumar
Date of Hearing	21.07.2022
Date of Pronouncement	27.07.2022

ORDER

The assessee has filed this appeal challenging the order dated 25.03.2019 passed by Learned CIT(A)-48, Mumbai and it relates to the assessment year 2014-15. The assessee is aggrieved by the decision of Learned CIT(A) in dismissing the appeal of the assessee in an order passed ex-parte.

2. The assessee is contesting two types of additions made by the AO, viz., addition of Rs.1,27,125/- made u/s 56(2)(vii)(b)(ii) of the Act and the addition of Rs.5,26,400/- made u/s 68 of the Act.

3. I heard the parties and perused the record. The assessee along with his parents had sold a flat for a consideration of Rs.1,53,00,000/-. The stamp duty value determined by the sub-registrar was Rs.1,61,47,500/-. Hence the AO proposed to made addition of the difference between the above said values u/s 56(2)(vii)(b)(ii) of the Act. The assessee requested the AO to refer the matter of valuation to DVO. Since the AO did not receive valuation report from DVO before the completion of the assessment, he assessed the difference

between the values mentioned above, attributable to the assessee's share as income of the assessee. The difference amount attributable to the assessee's share was Rs.1,27,125/-. The AO also noticed that the assessee has deposited cash to the tune of Rs.5,26,400/- into his bank account. The AO assessed the same as income of the assessee u/s 68 of the Act. The LdCIT(A) confirmed both the additions in the ex-parte order passed by him.

4. The Ld A.R submitted that the assessee could not appear before LdCIT(A) for the reasons beyond his control. She further submitted that the report of DVO has since been received and hence the same also requires to be considered. Accordingly, she prayed that the matters may be restored to the file of Learned CIT(A) for adjudicating all the issues afresh, after hearing the assessee.

5. The Ld D.R did not object to the prayer put forth by Ld A.R.

6. I noticed earlier that the Learned CIT(A) has passed the order ex-parte without hearing the assessee. Hence, in the interest of natural justice, I am of the view that the prayer put forth by Ld A.R requires to be accepted. Affording proper opportunity of being heard would promote the cause of justice and further no prejudice shall be caused to the revenue. Accordingly, I set aside the order passed by LdCIT(A) and restore all the issues to his file for adjudicating them afresh. After affording adequate opportunity of being heard to the assessee, the LdCIT(A) may take appropriate decision in accordance with law.

7. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 27.07.2022.

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 27/07/2022

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai