

**आयकर अपीलीय अधिकरण, सुरत न्यायपीठ, सुरत**  
IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT “**SMC**” BENCH,  
SURAT

BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER

**आ.अ.सं./ITA No.187/SRT/2022** (AY 2014-15)

(Hearing in Physical Court)

Shri Hirenkumar Pravinchandra Desai, Bagumara, Kadodara- Bardoli Road, N.H.06, Tal: Palsana, Dist. Surat-394315 <b>PAN No: ABIPD 1973 E</b>	Vs	Dy. Commissioner of Income Tax, Circle-2(3), Surat-395001
<b>अपीलार्थी/</b> Appellant		<b>प्रत्यर्थी /</b> Respondent

निर्धारित की ओर से /Assessee by	Shri Ketan Jagirdar, C.A
राजस्व की ओर से /Revenue by	Shri Vinod Kumar, Sr-DR
सुनवाई की तारीख/Date of hearing	23.02.2023
उद्घोषणा की तारीख/Date of pronouncement	28.04.2023

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER:**

1. This appeal by assessee is directed against the order of National Faceless Appeal Centre, Delhi [for short to as “NFAC/Ld. CIT(A)”] dated 18.04.2022 for assessment year 2014-15, which in turn arises out assessment order passed by Dy. Commissioner of Income-tax, Circle1-2(3), Surat/ Assessing Officer under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’) dated 15.12.2016. The assessee has raised the following grounds of appeal:-

*“1) The learned Commissioner of Income Tax (Appeals) NFAC has erred in law and on facts in confirming additions made by Ld.AO as per order passed u/s 143(3) of the Act.*

*i. Addition u/s 56(2)(vii)(b) income from other sources being difference in Stamp duty valuation and purchase consideration of agricultural land.*

*2) The appellant prays for granting such other relief as maybe deemed judicious and proper by your honours considering the factual and legal aspects of the case of the appellant.*

*3) The Appellant craves leave to add, amend, alter, modify, substitute, delete, change, vary, withdraw all or any of the Ground or Grounds of appeal.”*

2. Brief facts of the case are that assessee is a proprietor of “Begampura Petroleum”, engaged in the business trading of petroleum products. The assessee filed its return of income for assessment year 2014-15 on 17.01.2015 declaring income of Rs.22,76,960/-. The case was selected for scrutiny. During assessment, the Assessing Officer noted that assessee alongwith other co-owners purchased a land at Revenue Survey No.339, Block No.395/1/A/1, Moje Village Lingd, Taluka Palsana, Surat admeasuring 12067 square meter. The said land transaction was registered on 07.10.2013, with Sub-registrar concerned. The consideration on the transfer/sale deed is shown at Rs. 38,50,000/-. The assessee paid stamp duty of Rs. 5,23,300/-. Considering the amount of stamp duty, the

Assessing Officer was of the view that actual price of land should be at Rs.1,06,79,592/-. Thus, the assessee has suppressed the actual price while selling on the basis of such observation, the Assessing Officer issued show cause notice as to why the difference in the cost shown on the convenience deed, sale deed and actual cost the difference should not be added. The Assessing Officer specified that assessee having 1/4<sup>th</sup> share therefore 25% of Rs.68,29,592/- i.e., Rs.17,07,398/- should not be treated as "*income from other sources*". The assessee has filed his reply dated 06.10.2016. In the reply, assessee stated that assessee has paid the value of land as per market value. The value adopted by the Stamp Valuation Authority, is exceed the Fair Market Value on the date of transfer, the value so is adopted by Stamp Valuation Authorities has not been disputed in earlier appeal or revision or reference either before any authorities or court or Hon'ble High Court. Therefore, matter may be referred to Valuation officer under the provision of Income Tax Act. The Assessing Officer referred the matter to the Valuation Cell and no report of Valuation Department was received, the case was getting

time-barred. Thus, the Assessing Officer made addition of Rs.17,07,398/- at the time of passing assessment order on 15.12.2016.

3. Aggrieved by the addition in the assessment order, the assessee filed appeal before Ld. CIT(A). Before NFAC/Ld. CIT(A) the assessee in his submission, stated that Assessing Officer has not considered the relevant factor for assessing Fair Market Value (FMV) of said property and passed the assessment order without considering the District Valuation Officer (DVO in short) report. The Assessing Officer is not an expert in valuing the matter who decides the value of land is surrounded by Khadi and subjected to soil erosion. The assessee also stated that as per the ready reckoner rate of Superintendent of Stamp the jantri rate of land in survey No. 339 block No. 395A/1 Moje Village Lingad is Rs. 465/- per square meter only, thus total value of land would be of Rs. 56,11,155/- only and not Rs.1,06,79,592/- as assumed by assessing officer. The assessee also stated that the DVO suggested the rate of land at Rs.930/- per square meter and determined value of land, which is more than the value adopted by the Assessing Officer on the basis of Stamp

Valuation Authority. The assessee also obtained the report of Government registered Valuer P K Desai, who suggested the rate of land at Rs. 319/- per square meter.

4. The NFAC/Ld. CIT(A) after considering the submissions of the assessee and the report of DVO noted that reference to DVO was made on the request of assessee, and the assessee is now objecting against the report of DVO. The assessee raised similar objection before the DVO, which was considered by DVO while determining the fair market asset and no additional evidence whatsoever was brought on record by Assessing Officer for suggesting the error in the report of DVO. The Fair Market Value suggested by DVO approximately @ 5% more than the value of Stamp Valuation Authority as adopted by Assessing Officer. Thus, the Fair Market Value adopted by Assessing Officer was accepted and thereby confirmed the addition made by Assessing Officer. Further aggrieved assessee has filed present appeal before the Tribunal.
5. I have heard the submission of Ld. Authorized Representative (Ld.AR) for the assessee and Ld. Senior Departmental Representative (Sr DR) for the revenue and

perused the materials available on record carefully. The Ld. AR for the assessee submits that assessee purchased the land along with other co-owners at the value shown in the sale deed. However, on the basis of advice, the assessee and his co-owner paid stamp duty @ Rs.885/- per square meter. The assessee paid excess stamp duty on the transaction. The assessee obtained report of Government Registered Valuer, Sh P. K Desai, who valued the land @ Rs. 319/- per square meter. The Government registered valuer also considered the ready reckoner rate of State / Jantri rate declared by Sate Government at Rs. 465/- per square meter. The rate suggested by Government registered are quite reasonable and may be accepted. The DVO suggested the value of land @ Rs. 930/- per square meter. The DVO has given comparable instances of three land, as per Annexure-A, attached with his report. All the comparable shown mentioned in his report are in fact not comparable with the land of the assessee. The Ld.AR for the assessee referred each and every instance by assessee out of which to comparable to less than the value shown by assessee only in one comparable the rate is shown at Rs.895/- per square

meter. On the basis of such above discrepancies, Ld.AR for the assessee prayed that accept the value shown by assessee on the convenience deed be accepted.

6. On the other hand, Ld. Sr-DR for the Revenue supported the order of lower authorities.
7. I have considered the rival submission of both the parties and perused the record carefully. I find that there is no dispute that assessee has purchased the land and shown the sale consideration @ 885/- per square meter during the assessment, the Assessing Officer made reference to DVO for determination of Fair Market Value, the DVO suggested the market value @ Rs. 930/- per square meter on the basis of three following instances, which is part of report. For appreciation of fact, the Annexure-A is forming part of report of Assessing Officer is extracted below:

Sr.No.	Location	Consideration in (Rs)	Area in (Sq.mt)	Rate/Sq. m. in(Rs)
1	Land bearing R.S. Nop.321/3, 322/1,323/1+2, Block No.363	4500000	5027.45	895.00
2	Land bearing SurveyNo.40/51,Block No.44	4700000	5969.00	787.00
3	Land bearing Block No.117/B	4000000	6064.00	660.00

8. Before me, the ld. AR for the assessee also vehemently submitted that as per rate of Stamp Valuation Authority, jantri rate in Survey number purchased by assessee are only @ 465/- per square meter. I find merit in the submissions of the ld AR for the assessee that they have paid excess stamp duty on the transaction.
9. On perusal of rate of State Government/ Jantri rate, I find that jantri rate of Revenue Survey No. 339 is Rs. 465/- per square meter only as reflected in the rate list of jantri rate, copy of which is filed at page no. 29 of paper book. Therefore, taking the cognisance of jantri rate of State Government in respect of the survey number purchased by the assessee, I find that the total value as per Jantri value of land would be Rs. 56,11,155/- and the difference viz-a viz consideration shown by the assessee and his co-owner is only 17,61,155/- and the share of assessee being  $\frac{1}{4}$  will be of Rs. 4,40,288/-. Therefore, the assessing officer is directed to restrict the addition to the that extent only. In the result, the grounds of appeal raised by the assessee is partly allowed.

10.In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 28/04/2023.

Sd/-  
**(PAWAN SINGH)**  
[न्यायिक सदस्य JUDICIAL MEMBER]

सूरत /Surat, Dated: 28/04/2023  
*Dkp. Out Sourcing Sr.P.S*

Copy to:

1. Appellant-
2. Respondent-
3. CIT
4. DR
5. Guard File

By order

// True Copy //

Senior Private Secretary/ Private  
Secretary/Assistant Registrar, ITAT,  
Surat