

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President
&
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 197/KOL/2023
Assessment Year: 2014-2015**

**Kanai Maji,.....Appellant
Balitora, Murulia, Santuri,
Purulia-723121, West Bengal
[PAN: AKIPM0164D]**

-Vs.-

**Income Tax Officer,.....Respondent
Ward-2(2), Asansol,
Parmar Building,
54, G.T. Road, Asansol-713301,
West Bengal**

Appearances by:

*Shri Manish Tiwari, A.R., appeared on behalf of the
assessee*

*Smt. Ranu Biswas, Addl. CIT, D.R., appeared on behalf of
the Revenue*

Date of concluding the hearing : April 26, 2023

Date of pronouncing the order : May 23, 2023

ORDER

Per Shri Rajpal Yadav, Vice-President (KZ):-

The assessee is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 15th February, 2023 passed for assessment year 2014-15.

2. Though the assessee has taken three grounds of appeal, but these grounds contain sub-grounds. In brief, his grievance is that the ld. CIT(Appeals) has erred in confirming the addition of Rs.13,26,455/-, which was added by the ld. Assessing Officer with the aid of section 56(2)(vii)(b) of the Income Tax Act. The ld. CIT(Appeals) has failed to provide proper opportunity of hearing to the assessee.

3. Brief facts of the case are that the assessee has filed his return of income on 30.03.2015 for A.Y. 2014-15 declaring total income of Rs.7,84,920/-. The case of the assessee was selected for scrutiny assessment and on scrutiny of the accounts it revealed that the assessee has purchased two plots during the accounting period relevant for this assessment year. The details of such purchases have been noticed by the ld. Assessing Officer on page no. 2 of the assessment order. A perusal of those details would reveal that there was a difference between transaction value, *vis-a-vis* valuation determined by the Stamp Duty Valuation Authorities for charging the Stamp Duty. This difference in the value has been worked out at Rs.13,26,455/-. The ld. Assessing Officer was of the view that this difference is to be deemed as income of the assessee from other sources under section 56(2)(vii)(b) of the Income Tax Act. Accordingly he made the addition of this amount.

4. Appeal to the ld. CIT(Appeals) did not bring any relief to the assessee.

5. The ld. Counsel for the assessee submitted that as far as application of section 56(2)(vii)(b) is concerned, there is no dispute. The assessee has submitted that he has purchased the plots for the value, which is being shown in the Registered Document. In case, the actual value is being replaced by deemed purchase cost, then matter should have been referred to the DVO for determining fair market value of the property on the date of transaction. This prayer of the assessee has not been accepted by both the authorities. He further submitted that once assessee is contesting for this deeming cost of purchase, then it should be construed that a dispute has been raised by the assessee and automatically a reference should be made to the DVO to determine the fair market value of the property on the date of transaction.

6. With the assistance of ld. Representatives, we have gone through the record carefully. Since the order of the ld. CIT(Appeals) has been passed by the National Faceless Appellate Authority, nothing is discernable from this order whether prayer for obtaining report of DVO was made or not made, but taking cognizance of the fact

that the assessee is disputing the adoption of the deemed cost of purchase. We deem it proper that a report from the DVO ought to be obtained before determining the fair market value of the property for the purpose of addition under section 56(2)(vii)(b) of the Income Tax Act. Accordingly both the orders are set aside. This issue is restored to the file of Id. Assessing Officer with a direction that Id. Assessing Officer first call for the report of the DVO and thereafter decide whether any addition is required to be made or not. The Id. Assessing Officer shall decide the issue in accordance with law.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on May 23, 2023.

Sd/-
(Rajesh Kumar)
Accountant Member

Sd/-
(Rajpal Yadav)
Vice-President(KZ)

Kolkata, the 23rd day of May, 2023

*Copies to : (1) Kanai Maji,
Balitora, Murulia, Santuri,
Purulia-723121, West Bengal*

*(2) Income Tax Officer,
Ward-2(2), Asansol,
Parmar Building,
54, G.T. Road, Asansol-713301,
West Bengal*

- (3) *Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre (NFAC),
Delhi;*
- (4) *Commissioner of Income Tax ,*
- (5) *The Departmental Representative*
- (6) *Guard File*

TRUE COPY

By order

*Assistant Registrar
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.