

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'B' BENCH,
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No. 5600/DEL/2019
[Assessment Year: 2015-16]

The I.T.O
Ward 24(1)
New Delhi

Vs.

Soma Warehousing Corporation
B-4145, Safdarjung Enclave
New Delhi

PAN : AAPCS 7747 A

[Appellant]

[Respondent]

Date of Hearing : 08.06.2023
Date of Pronouncement : 12.06.2023

Assessee by : Shri Gautam Jain, Adv
Revenue by : Ms. Parmita M. Biswas, CIT- DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the Revenue is preferred against the order of the Commissioner of Income Tax [Appeals] - 8, New Delhi dated 03.04.2019 pertaining to assessment year 2015-16.

2. The solitary grievance of the Revenue is that the Id. CIT(A) erred in deleting the addition u/s 56(2)(vii)(ii) of the Income tax Act, 1961 (hereinafter referred to as 'the Act') amounting to Rs. 64,20,99,900/-.

3. Briefly stated, the facts of the case are that the assessee filed its return of income electronically on 30.09.2015 declaring loss of Rs. 11,300/-. Return was selected for scrutiny assessment through CASS and, accordingly, statutory notices were issued and served upon the assessee.

4. The assessee is engaged in the business of construction and development of warehouse and godown. While scrutinising the return of income, the Assessing Officer noticed that the assessee has made investment in shares of M/s Soma Punjab Warehousing (P) Ltd wherein the assessee has purchased 1,45,70,000 shares at face value of Rs. 10/- and premium value of Rs. 94/- per share totalling to Rs. 104/- per share.

5. The assessee was asked to furnish the fair market value of the shares in which the investment was made. The assessee submitted the fair market value of shares at Rs. 148.08 per share and purchase price is Rs. 104 per share. The assessee has paid lesser value by Rs. 44.07

per share. Multiplying the same with number of shares purchased by the assessee, the Assessing Officer made addition of Rs. 64,20,99,900/- u/s 56(2)(viiia(ii) of the Act.

6. The assessee challenged the addition before the Id. CIT(A) and submitted that the valuation report, as per the method prescribed in the sub-clause (b) of Rule 11U(1) of the Rules wherein the fair market value was computed at negative figure Rs. 340.56. It was claimed that since the fair market value determined as per the IT Rules is in negative, therefore, there is no question of making any addition in purchase of shares @ Rs. 104/- per share.

7. The Id. CIT(A) having admitted the valuation report, called for remand report from the Assessing Officer and the Assessing Officer furnished the remand report dated 26.06.2018, which is exhibited at pages 37 to 41 of the Paper Book. Accepting the valuation as per the I.T. Rules, in light of remand report, the Id. CIT(A) deleted the addition made by the Assessing Officer.

8. Before us, the Id. DR vehemently stated that it was the assessee who submitted the valuation report of the fair market value before the Assessing Officer from which the Assessing Officer came to know that

the fair market value of the share was Rs. 148.07 per share. It is the say of the ld. DR that basis this valuation report, the Assessing Officer made the impugned addition of Rs. 64.20 crores and, therefore, there is no error in the assessment and the same should be upheld.

9. Per contra, the ld. counsel for the assessee vehemently stated that the valuation report submitted to the Assessing Officer was basis for making investment and the said valuation report was not as per Rule 11UA(1) of the IT Rules. It is the say of the ld. counsel for the assessee that before the ld. CIT(A), the assessee submitted the valuation of the fair market value as per I.T Rules and as per that report, the fair market value is negative figure of Minus 340.56 per share and, therefore, the ld. CIT(A) has rightly deleted the addition made by the Assessing Officer.

10. We have given thoughtful consideration to the orders of the authorities below. We have also gone through the remand report submitted by the Assessing Officer on the valuation of fair market value as per Rule 11UA(1) of the Rules. We find that in the remand report, other than supporting the assessment, the Assessing Officer has

not commented at all on the determination of fair market value as per book value prescribed u/r 11UA(1) of the I.T. Rules.

11. No error or infirmity was pointed out by the Assessing Officer in the said valuation report. Since the valuation report is based on the method prescribed under the I.T. Rules and since the same has determined the fair market value at Minus 340.56, the Id. CIT(A) has rightly followed the same while deleting the addition, which calls for no interference.

12. In the result, the appeal filed by the Revenue in ITA No. 5600/DEL/2019 is dismissed.

The order is pronounced in the open court on 12.06.2023.

Sd/-

**[ANUBHAV SHARMA]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 12th JUNE, 2023.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
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Date of dispatch of the Order	