

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
MS. MADHUMITA ROY, JUDICIAL MEMBER**

<b>ITA No. 821/Bang/2023</b>
<b>Assessment Year : 2018-19</b>

M/s. Mohit Anushka Enterprises, No. 100/1, City Center, Opp. Town Hall, J.C. Road, Bangalore – 560 002. <b>PAN: ABFFM9997A</b>	<b>Vs.</b>	The Income Tax Officer, Ward – 5(2)(1), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Smt. Suman Lunkar, CA
Revenue by	:	Shri V. Parithivel, JCIT DR

Date of Hearing	:	20-12-2023
Date of Pronouncement	:	20-12-2023

**ORDER**

**PER MADHUMITA ROY, JUDICIAL MEMBER**

The instant appeal filed by the assessee is directed against the order dated 21.09.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi arising out of the order dated 06.04.2021 u/s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for A.Y. 2018-19 whereby and whereunder the addition made by the Ld.AO has been confirmed.

2. The assessment of the assessee was finalized by the Ld.AO by making addition of the difference of Rs. 1,97,99,550/- to the purchase value of the property and the value of the property as per the stamp valuation authority to the income upon treating the same under the head "Income from other sources".
3. During the course of appellate proceeding, the assessee submitted certain documents particularly the deed of conveyance in respect of the purchase of the plots in question for adjudication of the issue in support of the assessee on the count that section 56(2)(x) of the Act is not applicable to certain transactions. Such documents were placed along with written note of submission before the Ld.CIT(A). However, the same was not admitted, neither considered and ultimately the order of addition was confirmed by the Ld.CIT(A). Hence the instant appeal before us.
4. At the time of hearing of the matter, the Ld.Counsel appearing for the assessee submitted before us that the additional ground has been taken by the assessee before us for the first time to this effect that section 56(2)(x) of the Act, to the plots held as stock in trade is not applicable. As the ground being raised goes to the root of the matter, the same is required to be admitted by us. On this aspect, she also relied upon the judgments of Hon'ble Supreme Court in case of National Thermal Power Co. Ltd. Vs. CIT, reported

in (1998) 229 ITR 383 and Jute Corporation of India Ltd. Vs. CIT reported in 187 ITR 688.

5. Keeping in view of the proposition laid down by Hon'ble Supreme Court in the cases referred above, we admit this additional ground raised by the assessee. Relevant to mention that the Ld.DR has not raised any serious objection to this effect.
6. So far as the merit of the matter is concerned, it is the case of the appellant that the additional documents though placed before the First Appellate Authority, the same was not admitted. Moreso, the assessee on merit relied upon the following judgments.
  - a) Judgment passed by the Hon'ble Madras High Court in case of CIT I, Chennai vs. M/s. Thiruvengadam Investments Pvt. Ltd. in Tax Case (Appeal) No. 1329 of 2009
  - b) Order passed by the ITAT Jaipur Benches in ITA No. 392/JP/2019 (Shri Satendra Koushik vs. ITO, Ward-2, Jhunjhunu)
  - c) Order passed by the Coordinate Bench in ITA No. 1224/Bang/2019 (Smt. Sowmya Sathyan vs. ITO)
7. As admittedly, the additional documents submitted by the appellant before the First Appellate Authority was not admitted which goes to the root of the matter in dealing with the issue of addition made u/s. 56(2)(x) of the Act, we for the

ends of justice, find it fit and proper to give a further opportunity of being heard to the assessee to rely upon those documents for consideration of the issue involved in this particular case in its proper perspective and thus remit the issue to the file of Ld.AO to consider the same afresh upon giving an opportunity of being heard to the assessee and upon considering the evidence on record or any other evidence which the assessee may choose to file at the time of hearing of the matter.

8. The Ld.AO is also directed to consider the judgments as relied upon by the assessee in its proper perspective while dealing with the issue and to pass a reasoned order strictly in accordance with law.

**In the result, the appeal filed by the assessee stands allowed for statistical purposes.**

Order pronounced in the open court on 20<sup>th</sup> December, 2023.

Sd/-  
(CHANDRA POOJARI)  
Accountant Member

Sd/-  
(MADHUMITA ROY)  
Judicial Member

Bangalore,  
Dated, the 20<sup>th</sup> December, 2023.  
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore

By order

Assistant Registrar,  
ITAT, Bangalore