

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad

Before Hon'ble Justice (Retd.) C.V. Bhadang, President
AND
Shri R.K. Panda, Vice-President

आ.अपी.सं / **ITA No.493/Hyd/2023**
(निर्धारण वर्ष/Assessment Year: 2018-19)

Shri Sarwar Ahuja Hyderabad PAN:AHKPA9724E (Appellant)	Vs.	Income Tax Officer Ward-6(1) Hyderabad (Respondent)
निर्धारिती द्वारा/Assessee by:	N O N E	
राजस्व द्वारा/Revenue by::	Shri Shakeer Ahmed, DR	
सुनवाई की तारीख/Date of hearing:	15/02/2024	
घोषणा की तारीख/Pronouncement:	27/02/2024	

ORDER

Per R.K. Panda, Vice-President.

This appeal filed by the assessee is directed against the order dated 2/8/2023 of the learned CIT (A)-NFAC, Delhi, relating to A.Y.2018-19.

2. This appeal was fixed for hearing on 21/11/2023. However, due to non-appearance by anyone on the date of hearing, the case was adjourned to 15.2.2024 and notice was issued through RPAD which was duly served on the assessee and the acknowledgment placed on record. However, on 15.2.2024 when the name of the assessee was called there was neither anyone present for the assessee nor any application

filed seeking adjournment of the case. Under these circumstances, we proceed to decide the appeal on the basis of material available on record and after hearing the learned DR.

3. The only effective ground raised by the assessee reads as under:

“1. That learned CIT (A) NFAC has erred by confirming the addition u/s 56(2)(vii)(b) r.w.s. 50C of the I.T. Act, 1961 amounting to Rs.12,85,500/- without considering the evidences filed during appellate proceedings and also in sheer disregard of judicial pronouncements referred in written submission”.

4. Facts of the case, in brief, are that the assessee is an individual and derives income from salary and house property. He filed his return of income on 25/07/2018 declaring total income of Rs.4,70,100/-. The case was selected for limited scrutiny to verify the Investment in Immovable Property. Statutory notices u/s 143(2) & 142(1) were issued and served on the assessee in response to which the assessee filed the requisite details before the Assessing Officer.

5. During the course of assesment proceedings, the Assessing Officer noted that the assessee along with his wife Smt. Aditi Sharma had jointly purchased an immovable property at Royal Palms Estate, Mayur Nagar, Village Maroshi, Aarey Milk Colony, Near Unit No.26, Goregaon (East), Mumbai for a total consideration of Rs.1,35,00,000/- (50% share each), registered with the Jt. SRO, Borivali No.3, Mumbai. The assessee submitted before the Assessing Officer that he had paid a sum of Rs.18,65,000/- which is out of loan taken to the

tune of Rs.17,00,000/- and the balance of Rs.1,65,000/- out of past savings. It was submitted that the balance amount of Rs.1,16,35,000/- is paid by Smt. Aditi Sharma.

6. The Assessing Officer observed that the purchase value of the property is Rs.1,35,00,000/- whereas as per the sale deed, market value of the property is Rs.2,43,02,502/- for the purpose of stamp duty. The difference between the purchase value of the property as per the purchase deed and the value as per the Stamp Valuation Authority is Rs.1,08,02,502/- and thus the share of the assessee at 50% of the above comes to Rs.54,01,251/-. The assessee filed a detailed reply explaining the reasons for the difference between the purchase value and stamp duty value. However, the Assessing Officer was not satisfied with the arguments advanced by the assessee and referred the matter to the District Valuation Officer (DVO) for valuation of the said property vide letter dated 19.02.2021. However, till the time of completion of the assessment, the valuation report from the valuer was not received. The Assessing Officer therefore, applying the provisions of section 56(2)(vii)(b) r.w.s. 50C of the I.T. Act, 1961 took the value of the purchase consideration of the property at Rs.2,43,02,502/- and accordingly made an addition of Rs.54,01,251/- being 50% of the assessee's share on account of the difference between the purchase consideration as per sale deed and the value as per the stamp valuation authority.

7. In appeal, the learned CIT (A) NFAC following the decision of the Delhi Bench of the Tribunal in the case of Ms.

Sudha Garg vs. ITO vide ITA No.1411/Del/2018 dated 14.08.2018 partly allowed the appeal of the assessee by directing the Assessing Officer to adopt the valuation determined by the DVO in the valuation report at Rs.1,60,71,000/- which is lesser than the value adopted by the Stamp Valuation Authority at Rs. 2,43,02,502/- and determine the taxable income accordingly.

8. Aggrieved with such order of the learned CIT (A) the assessee is in appeal before the Tribunal.

9. We have heard the learned DR and perused the record. It is an admitted fact that the assessee has purchased the property along with his wife for a consideration of Rs. 1,35,00,000/- (50% share each), whereas the value adopted by the stamp valuation authority is at Rs. 2,43,02,502/-. Although the Assessing Officer referred the matter to the DVO for determination of the market value of the property, however, due to non-receipt of such report from the DVO till completion of the assessment, the Assessing Officer applying the provisions of section 56(2)(vii)(b) r.w.s. 50C of the I.T. Act, 1961 made addition of Rs.54,01,251/- being the assessee's share of the difference between the purchase consideration and the value as per the stamp valuation authority. We find during the appellate proceedings before the learned CIT (A) NFAC, the report of the DVO was available according to which the DVO has valued the property at Rs. 1,60,71,000/- which is lesser than the fair market value adopted by the Stamp Valuation Authority. We

find the learned CIT (A) NFAC confronted the said valuation report to the assessee who stated that the registered valuer has determined the value of the property at Rs.1,32,00,000/- which should be accepted. However, the learned CIT (A) NFAC rejecting the various explanations given by the assessee held that if the stamp duty value adopted by the Stamp Valuation Authority is more the value determined by the DVO, then such valuation made by the DVO shall be binding on the Assessing Officer. The learned CIT (A) NFAC thereafter following the decision of the Delhi Bench of the Tribunal in the case of Ms. Sudha Garg vs. Income Tax Officer (Supra) directed the Assessing Officer to adopt the value as per the stamp valuation authority at Rs.1,60,71,000/- and assess the taxable income accordingly. In our opinion, the order passed by the learned CIT (A) NFAC is just and proper under the facts and circumstances of the case in absence of any other material before us. In this view of the matter, we uphold the order of the learned CIT (A) NFAC and the grounds raised by the assessee are dismissed.

10. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the Open Court on 27th February, 2024 through virtual mode.

Sd/- (Justice (Retd.) C.V. BHADANG PRESIDENT	Sd/- (R.K. PANDA) VICE-PRESIDENT
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Hyderabad, dated 27th February, 2024
Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Sarwar Ahuja, C/o S Chaturvedi & Associates, 305 Deep Shikha Rajendra Place, New Delhi 110008
2	Income Tax Officer Ward-6(1) IT Towers, AC Guards, Masab Tank, Hyderabad 500004
3	Pr. CIT-, Delhi
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order