

**IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI**

**SHRI AMARJIT SINGH, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 3242/MUM/2023
(Assessment Year: 2018-19)**

**Guhagar Taluka Kunbi Sahakari
Patpedhi Ltd.,**

4, Shanti Niwas, Fitwala Road,
Elphinstone Road, Mumbai - 400013
[PAN: AAAAG3363R]

.....

Appellant

**Income Tax Officer
Ward 22(1)(1), Mumbai.**

Piramal Chamber,
Mumbai - 400012

Vs

.....

Respondent

Appearance

For the Appellant/Assessee : Shri Haridas Bhat
For the Respondent/Department : Dr. Kishor Dhule

Date

Conclusion of hearing : 24.01.2024
Pronouncement of order : 26.02.2024

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Appellant has challenged the order, dated 14/07/2023, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2018-19, whereby the Ld. CIT(A) had partly allowed the appeal of the Assessee against the Assessment Order, dated 20/02/2021, passed under Section 143(3) read with Sections 143(3A) & 143(3B) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').
2. The Appellant has raised following grounds of appeal:

- "a. *On the facts and in the circumstances of the case and in law, the Additional/Joint/Deputy/Assistant Commissioner of Income Tax /Income-tax Officer, National Faceless Assessment Centre, Delhi. The AO erred making additions made u/s 56(2)(x)(b)(B) of the Act amounting to Rs. 60,19,506/-.*
- b. *On the facts and circumstances of the case and in law the AO failed to appreciate that*
- i. The assessee has entered into the agreement to purchase the property in 2005.*
 - ii. Registration of the said property is done in 2017.*
 - iii. There is no fresh purchase of property during the year.*
 - iv. The different in value adopted u/s 56 is on account change of value of the property from the date on which it was purchased in 2005 till date.*
- c. *Thus the appellant therefore prays that the addition made u/s 56 may please be deleted."*

3. The relevant facts in brief are that the Appellant, a co-operative credit society, filed return of income for the Assessment Year 2018-19 on 26/12/2018 which was selected for scrutiny. During the assessment proceedings, the Assessing Officer noted that the Appellant had purchased one immovable property vide registered Sale Deed, dated 15/06/2017, for a consideration of INR 7,20,000/-. Whereas the Stamp Duty Valuation of the said immovable property was INR 67,39,506/-. Since the purchase consideration of the immovable property was below the stamp duty valuation, the Assessing Officer made the addition of differential amount of INR 60,19,506/- in the hands of the Appellant by invoking provisions of Section 56(2)(x)(b)(B) of the Act. While making the aforesaid addition vide Assessment Order, dated 20/02/2021, passed under Section 143(3) read with Sections 143(3A) & 143(3B) of the Act, the Assessing Officer noted that the Appellant had not disclosed the purchase of the aforesaid immovable property in the return of

income for the Assessment Year 2018-19.

4. Being aggrieved by the above addition of INR 60,19,506/- under Section 56(2)(x)(b)(B) of the Act, the Appellant preferred appeal before CIT(A). Before the CIT(A), it was contended on behalf of the Appellant that the immovable property under consideration was initially agreed to be acquired in the year 2005 and only the formal procedure of registration of the Sale Deed had taken place on 15/06/2017. The Appellant supported the aforesaid submission with copies of the relevant documents which included copy of Agreement, dated 28/01/2005, and copy of bank statements showing the payment of aggregate consideration of INR 7,20,000/- made towards purchases of immovable property. It was further submitted that the consideration for purchase immovable property was fixed at INR 7,20,000/- vide Agreement, dated 28/01/2005 and the said purchase consideration was paid through banking channel on 16/07/2004 (INR 4,00,000/-) on 07/01/2005 (INR 3,20,000/-). Therefore, the case of the Appellant was covered by first and second proviso to Section 56(2)(x)(b)(B) of the Act. However, the CIT(A) was of the view that the requirement of the aforesaid proviso to Section 56(2)(x)(b)(B) of the Act were not satisfied and therefore, the CIT(A) sustained the addition of INR 60,19,506/- holding as under:

"6. With regard to second issue of deduction u/s 56(2)(x)(b)(B), the appellant has claimed that the property was initially agreed to be acquired in the year 2005 and only the formal procedure of registration was undertaken on 15.06.2007. The relevant copies of documents were also provided for verification. On careful examination of the said records, it is found that the condition laid down under first proviso to section 56(2)(x) stands complied as there exists agreement fixing the amount of consideration for the transfer of immovable property in the year 2005. However, while the consideration has not been paid through banking channels, the condition laid down in the second proviso have not been complied. Since both the conditions

have to be fulfilled cumulatively. the relief claimed by the appellant is untenable.

6.1. Therefore, the addition made u/s 56(2)(x)(b)(B) of Rs.6019506/- is sustained. While this deemed income from Other Sources is not attributable to the business of extending credit facility undertaken by the assessee in terms of its bye laws, this income from Other Sources is not eligible for deduction u/s 80P and therefore the addition to such extent stands as such. Accordingly, this ground of appeal is dismissed."

5. Being aggrieved, the Appellant carried the issue in appeal before the Tribunal.
6. We have considered the rival submissions and perused the material on record. On perusal of paragraph 6 and 6.1 of the order impugned, we find that the sole reason cited by the CIT(A) for declining to grant relief to the Appellant was that the consideration of INR 7,20,000/- was not paid by the Appellant through banking channel. On perusal of the bank statement placed before us (placed at page 79 to 94 of the paper-book), we find that the finding returned by the CIT(A) is factually incorrect. The copy of bank statement placed on record reflects payment of INR 4,00,000/- and INR 3,20,000/- made by the Appellant on 16/07/2004 and 07/01/2005, respectively. Thus, entire consideration of INR 7,20,000/- was paid by the Appellant through banking channel. We note that the CIT(A) had accepted the contention of the Appellant that the condition laid down under first proviso to Section 56(2)(x)(b)(B) of the Act stood complied with as there existed Indenture of Sale Deed, dated 20/01/2005, whereby the consideration for transfer of the immovable property under consideration was fixed at INR 7,20,000/-. We note that the aforesaid finding returned by the CIT(A) has not been challenged by the Revenue. Accordingly, since both the conditions laid down in second proviso to Section 56(2)(x)(b)(B) of the Act are also satisfied,

the addition of INR 60,19,506/- made by the Assessing Officer cannot be sustained and is therefore, deleted. Ground No. 1 raised by the Appellant is allowed.

7. In result, the present appeal preferred by the Assessee is allowed.

Order pronounced on 26.02.2024.

Sd/-
(Amarjit Singh)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 26.02.2024
Alindra, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT,
Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai