

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR “SMC” BENCH :NAGPUR [VIRTUAL HEARING]
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.230/NAG./2022
Assessment Year 2015-2016

Smt. Deepti Nanak Vaswani, 28, Sindhu Society, Jaripatka, NAGPUR – 440 014 Maharashtra PAN ABYPV6489R	vs.	The Income Tax Officer, Ward – 5(2), Saraf Chambers, NAGPUR. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Adiba
For Revenue :	Shri Abhay Y. Marathe, Sr. DR

Date of Hearing :	19.03.2024
Date of Pronouncement :	09.05.2024

ORDER

This assessee’s appeal for assessment year 2015-16, arises against the National Faceless Appeal Centre [in short the “NFAC”] Delhi’s Din and Order No. ITBA/NFAC/S/250/2022-23/1043198763(1), dated 26.05.2022, involving proceedings u/s.143(3) of the Income Tax Act, 1961 (in short “the Act”).

Heard both the parties. Case file perused.

2. The assessee sole substantive grievance canvassed in the instant appeal seeks to reverse both the learned lower authorities action making sec.56(2)(vii)(b) addition of Rs.14,84,650/- representing difference between actual purchase price of Rs.2 crores as against stamp value of

Rs.3,21,78,000/-; as reduced to Rs.2,29,69,300/- in the DVO's report submitted in assessment proceedings. The assessee is co-owner to the extent of 50% of the relevant 'capital asset' purchased and therefore, both the learned lower authorities have restricted the above differential value of Rs.2,29,69,300/- to 50% only coming to Rs.14,84,650/- in issue.

3. Learned counsel vehemently argued that the DVO's report submitted in the assessment proceedings nowhere considered all the relevant facts and distressing factors despite the fact that he had considerably reduced the fair market value ["FMV"] in question from stamp price of Rs.3,21,78,000/- to Rs.2,29,69,300/- (supra) only. Mr. Marathe could hardly dispute that such a valuation is indeed a subjective matter wherein all the corroborative facts play a major role in determining the fair market value of a 'capital asset'. Faced with this situation, and in larger interest of justice, it is deemed appropriate to restrict the impugned addition of Rs.14,84,650/- to a *lump sum* amount of Rs.12 lakhs only keeping in mind the peculiar facts and circumstances involved herein with a rider that the same shall not be treated as a precedent. The assessee gets relief of Rs.2,84,650/- in otherwords. Necessary computation shall follow as per law. Ordered accordingly.

4. Delay of 7 days in filing the instant appeal is condoned as per assessee's solemn averments in light of Collector, Land Acquisition vs., MST Katiji [1987] 167 ITR 471 (SC) having settled the law long back that all such technical aspects must make a way for the cause of substantial justice.

5. This assessee's appeal is partly allowed in above terms.

Order pronounced in the open Court on 09.05.2024.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 09th May, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Nagpur concerned
4.	D.R. ITAT, "SMC" Bench, Nagpur.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.