

IN THE INCOME TAX APPELLATE TRIBUNAL ‘F’ BENCH, MUMBAI

**BEFORE SHRI B R BASKARAN, AMAND
SHRI SANDEEP SINGH KARHAIL, JM**

ITA No.4611/Mum/2023
(Assessment Year:2014-15)

Mrs. Jaya Arjun Kanuga A-23, Miramaer, 2 nd Floor, Neepean Sea Road, Mumbai-400 026	Vs.	ITO-19(2)(1) Mumbai
PAN/GIR No.AAKPK 8338 D		
(Assessee)	:	(Respondent)
Assessee by	:	ShriVimal Punamiya
Respondent by	:	ShriSurendra Meena
Date of Hearing	:	13.06.2024
Date of Pronouncement	:	14.06.2024

ORDER

Per B R Baskaran, AM:

The assessee filed this appeal challenging the order dated 27.10.2023 passed by the learned Commissioner of Income Tax (Appeals)('Id.CIT(A) for short),National Faceless Appeal Centre ('NFAC' for short) u/s.250 of the Income Tax Act, 1961 ('the Act'), relevant to the Assessment Year ('A.Y.' for short) 2014-15.

2. The assessee is aggrieved with the decision of the Id. CIT(A) in confirming the addition of Rs.20,51,000/- made by the Id. Assessing Officer ('A.O.' for short) u/s. 56(2)(vii)(b) of the Act.

3. The learned Authorised Representative ('Id. AR' for short) submitted that the impugned addition has been made by the Id. A.O. on account of difference between the

stamp duty valuation and the sale consideration paid by the assessee. The Id. AR submitted that the assessee had objected to the stamp duty valuation by filing a copy of valuer's report before the Id. A.O. The said valuer had valued the property at Rs.25 lacs. The Id. A.O. did not accept the valuation report submitted by the assessee and referred the matter of valuation to the DVO. However, the Id. A.O. did not receive the report from the DVO before the completion of the assessment and, hence, he made an addition of Rs.79.37 lacs u/s. 56(2)(vii)(b) of the Act on protective basis.

4. In the appellate proceedings, the valuation report of the DVO was produced before the Id. CIT(A). The Id. DVO had valued the property at Rs.69.03 lacs. Since the share of the assessee in the said property was 50%, the Id. CIT(A) directed the Id. A.O. to assess 50% of the difference in the valuation in the hands of the assessee. Consequently, the addition made u/s 56(2)(vii)(b) came to be reduced to Rs.20.51 lacs. The assessee is still aggrieved.

5. The learned Authorised Representative ('Id. AR' for short) submitted that the assessee has filed a detailed objection before the DVO, objecting to the valuation done by him. However, the Id. DVO did not consider any of the objections filed by the assessee. On the contrary, he has mentioned in the valuation report that the assessee did not cooperate with him, which is factually incorrect. He also furnished a copy of objections raised by the assessee. Accordingly, the Id. AR submitted that the assessee may be provided with one more opportunity with the direction to the DVO to properly deal with the objections of the assessee.

6. We have heard the learned Departmental Representative ('ld.DR' for short) and perused the materials available on record. The submission made by the ld. AR would show that the DVO did not consider the objections raised by the assessee. Accordingly, we are of the view that the matter of valuation should be restored to the file of AO for examining it afresh. Accordingly, we set aside the order passed by the ld. CIT(A) and restore the matter to the file of the ld. A.O. with a direction to refer the matter of valuation to the DVO again. The ld. DVO shall provide proper opportunity to the assessee and duly address the objections raised by the assessee before finalizing the valuation. After the receipt of report of the valuation from the DVO, the ld. A.O. may take appropriate decision in accordance with the law, after affording adequate opportunity of being heard to the assessee.

7. In the result, the appeal filed by the assessee is treated as allowed.

Order pronounced in the open court on 14.06.2024

Sd/-

(Sandeep Singh Karhail)
Judicial Member

Mumbai; Dated : 14.06.2024

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

Sd/-

(B R Baskaran)
Accountant Member

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai