

आयकर अपीलीय अधिकरण  
कोलकाता 'एसएमसी' पीठ, कोलकाता में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'SMC' BENCH, KOLKATA

श्री संजय शर्मा, न्यायिक सदस्य  
एवं

श्री संजय अवस्थी, लेखा सदस्यके समक्ष

Before

SRI SONJOY SARMA, JUDICIAL MEMBER  
&  
SRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No.: 138/KOL/2024  
Assessment Year: 2018-19

*Smt Haimonti Shukla.....Appellant*  
*[PAN: EDWPS 8823 N]*

**Vs.**

*ITO, Ward-50(1), Kolkata.....Respondent*

**Appearances by:**

**Assessee represented by** – Amit Agrawal, Adv.

**Department represented by** – Sanjay Paul, Addl. CIT.

Date of concluding the hearing : July 2<sup>nd</sup>, 2024

Date of pronouncing the order : July 11<sup>th</sup>, 2024

**ORDER**

**Per Sonjoy Sarma, Judicial Member:**

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2018-19 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by Id. Commissioner of Income-tax (Appeals)-NFAC, Delhi [in short Id. 'CIT(A)'] dated 01.12.2023.

2. The brief facts of the case are that the case of the assessee was selected for limited scrutiny for the assessment year in question on the issue of investment in immovable property. During the assessment proceedings, Id. AO examined the issue related to investment in immovable property purchase value of property along with income disclosed u/s 56(2)(x) of the Act which was substantially less than the value as per stamp duty imposed by the

authority. In this regard, notice was issued to the assessee and assessee furnished its reply along with various details. The ld. AO from the examination of the registration deed noticed that flat bearing no. B-4, 3<sup>rd</sup> Floor, A-9/49, Kalyani total amount of consideration paid by the assessee as per registration deed was at Rs. 23,00,100/-. However, the market value of the property as per stamp valuation authority was at Rs. 30,15,300/- as information furnished by the assessee. The ld. AO after examining the various aspect of the case he found that difference in value of purchase property u/s 56(2)(x) of the Act was of Rs. 7,15,200/- and added to the income of the assessee by determining the total taxable income at Rs. 13,76,630/- in the hands of the assessee. Doing so, the ld. AO had referred to valuation of the alleged property to DVO. However, the report of DVO was not available while framing the assessment order as waiting for such report assessment proceedings were getting barred by limitation. Therefore, he made the assessment order on the basis of material available on the record.

3. Aggrieved by the above order, the assessee went into appeal before ld. CIT(A) where appeal of the assessee was dismissed.

4. Dissatisfied with the above order, assessee is in appeal before this Tribunal raising multiple grounds. However main grievance of the assessee is that while framing the assessment order the ld. AO did not consider the DVO's report while making the addition against the assessee and even before the ld. CIT(A) no such reports were furnished. Therefore, another opportunity may be given to the assessee by setting aside the matter to the ld. AO with a direction to re-examine the issue after considering DVO's report which was called by the AO while framing the assessment order.

5. The ld. D/R was fair enough do not to object to such prayer made by the ld. Counsel for the assessee.

6. We, after hearing the rival submissions of the parties and perusing the material available on record find force in the contention made by ld. Counsel for the assessee. Since, while passing the assessment order, DVO's report was not considered by both the authorities below, therefore, in the interest of

justice and fair play to the parties, the matter may remand back to the AO with a direction to re-examine the issue after considering the DVO's report which was called while framing the assessment order as in the case of the assessee. Accordingly, the Id. AO directed to decide the issue afresh after affording reasonable opportunity of hearing the assessee.

7. In terms of the above, appeal of the assessee is allowed for statistical purposes.

**Order pronounced in the open Court on 11<sup>th</sup> July, 2024.**

Sd/-

**[Sanjay Awasthi]**

Accountant Member

Sd/-

**[Sonjoy Sarma]**

Judicial Member

Dated: 11.07.2024

*Bidhan (P.S.)*

*Copy of the order forwarded to:*

- 1. Smt Haimonti Shukla, A-9/309, Nadia, Kalyani, North 24 Parganas, West Bengal, 741235.**
- 2. ITO, Ward-50(1), Kolkata.**
- CIT(A)-NFAC, Delhi.
- CIT-
- CIT(DR), Kolkata Benches, Kolkata.

*//True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata