

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "B" Bench, Mumbai.

Before Shri B.R. Baskaran (AM) & Shri Raj Kumar Chauhan (JM)

I.T.A. No. 876/Mum/2024 (A.Y. 2015-16)

Sudha Subhana Desai 24K Glitterati, Flat No. 1003, New DP Road, Pimpale Nilakh, Mumbai- 411027. PAN : AVDPD0725H (Appellant)	Vs.	ITO-16(3)(5) Room No. 447, 4 th Floor, Aayakar Bhavan, M. K. Road, Mumbai-400020. (Respondent)
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Assessee by	Shri Rajendra Agiwal
Department by	Shri Ashok Kumar Ambastha (Sr. DR)
Date of Hearing	09.07.2024
Date of Pronouncement	19.07.2024

ORDER

PER B.R. BASKARAN (AM) :-

The assessee has filed this appeal challenging the order dated 15-12-2023 passed by Ld CIT(A), NFAC, Delhi and it relates to the AY 2015-16.

2. The solitary issue urged in this appeal is related to addition of Rs.34,11,500/- made by the Assessing Officer (AO) u/s 56(2)(vii)(b) of the Income Tax Act, 1961 (hereinafter "the Act").

3. We have heard the parties and perused the record. We notice that the assessee has purchased a residential property during the year under consideration. The AO noticed that the "Stamp Duty Value" has exceeded the value of purchase consideration by Rs.34,11,500/-. Accordingly, the assessing officer proposed to add the above said difference amount as income of the assessee u/s 56(2)(vii)(b) of the Act. During the course of assessment proceedings, the assessee requested the AO to refer the matter of valuation to

Departmental Valuation Officer (DVO), but the AO rejected the same by stating that he could not do so due to short span of time available for completion of assessment. Before the Ld. CIT(A), the assessee did not appear and hence the Ld. CIT(A) dismissed the appeal of the assessee. Aggrieved, the assessee has filed the appeal before this Tribunal.

4. We notice that the proviso to section 56(2)(vii)(b) of the Act makes it the mandatory for the AO to refer the matter of valuation of the immovable property to the Valuation Officer, if the value determined by the Stamp authorities is disputed by the assessee. However, in the instant case, though the assessee did dispute the valuation made by the Stamp Duty authorities, yet, the AO has refused to refer the matter of valuation to the DVO for want of time. In our view, when the statute prescribes a particular procedure, the same has to be followed by the AO. Accordingly, we are of the view that this matter requires fresh examination at the end of the AO. Accordingly, we set aside the order passed by the Ld. CIT(A) and restore all the issues to the file of the AO with a direction to examine the issue afresh by referring the matter of valuation to the DVO. After affording adequate opportunity of being heard to the assessee, the AO may take appropriate decision in accordance with law.

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

Order pronounced in the open court on 19/07/2024

Sd/-
(Raj Kumar Chauhan)
Judicial Member

Sd/-
(B.R. Baskaran)
Accountant Member

Mumbai.; Dated : 19/07/2024

Vijay Pal Singh, (Sr. PS)

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai