

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'I' BENCH
MUMBAI**

**BEFORE: MS. KAVITHA RAJGOPAL, JUDICIAL MEMBER
&
SMT RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.2368/Mum/2024
(Assessment Year :2015-16)**

Shri Xavier Maxcot Chako George (Non resident Indian) C/o. 303, The Eagle's Flight Suren Road Behind Guru Nanak Petrol Pump Andheri (E) Mumbai - 400 093	vs	The Income Tax Officer, Ward 2(3)(1) Mumbai
PAN/GIR No.ALSPG6722A		
(Appellant)	..	(Respondent)

Assessee by	Shri Ashit Ved
Revenue by	Shri Anil Sant
Date of Hearing	03/07/2024
Date of Pronouncement	31/07/2024

आदेश / O R D E R

PER RENU JAUHRI (AM):

The assessee has filed this appeal challenging the order dated 06.03.2024 passed by the learned CIT(A)-56, Mumbai and it relates to A.Y. 2015-16

2. The grounds of appeal raised by the assessee read as under:-

“1. The Learned Commissioner of Income Tax (Appeals) 56, Mumbai [Ld. CITA has erred in law and in facts in upholding the Assessment Order dated 24-05-2022 passed by the Income Tax Officer, Ward 2(3)(1) u/s 143(3) r.w.s. 253 of the Act in determining the assessed income at ₹49,24,550/- as against the returned income of ₹4,52,650

2. The Ld. CITA has erred in law and in facts in passing the order without observing the principles of natural justice.

3. The Ld. CITA has erred in law and in facts in not taking into consideration the explanation and details submitted during the original assessment and re-assessment proceedings.

4. The Ld. CITA has erred in law and in facts in confirming the action of the Ld. Assessing Officer [Ld. AO) in making addition of ₹44,71,900/- being difference in Stamp Duty Value as per Index II (2,29,53,500) vis-à-vis consideration (1,84,81,600) as per agreement registered on 26-03-2015 for purchase of the residential flat u/s 56(2)(vii)(b) of the Act.

5. The Ld. CITA has erred in law and in facts in not considering the finding of the Ld. AO that the residential flat was purchased for consideration of ₹1,84,81,600/- vide Letter of Allotment dated 20-02-2010 and the agreement for purchase of said residential flat was subsequently registered on 26-3-2015.

6. The Appellant craves leave to add to, amend, alter and/or delete any of the forgoing grounds of appeal.

3. The brief facts of the case are that assessee is a Non-Resident Indian and return declaring income of Rs.4,52,650/- was filed by him for A.Y.2015-16. The assessment was finalized u/s.143(3) of the Act on 26/12/2017 at returned income. Thereafter, proceedings u/s.263 were initiated and order was passed on 26/03/2021 by CIT(IT)-2, Mumbai directing the AO to examine the issue relating to addition

required to be made on account of difference between stamp duty value and the consideration paid by the assessee for purchasing an immovable property at Goregaon, Mumbai. It was claimed by the assessee that no addition was required to be made as stamp duty value on the date of agreement i.e. 20/02/2010 was required to be adopted and not that on the date of registration of agreement on 26/03/2015 as proposed by the AO. However, no documentary evidence regarding stamp duty value as on 20/02/2010 was submitted. Accordingly, assessment u/s.143(3) r.w.s. 263 was finalized on 24/05/2022 vide which addition of Rs.44,71,900/- being difference in stamp duty value of Rs.229,53,500/- on 26/03/2015 and the consideration paid of Rs.184,81,600/- was made u/s.56(2)(vii)(b) of the Act. During the appellate proceedings, the ld. CIT(A) issued several notices but there was no compliance by the assessee. In the absence of any submission from the appellant, the appeal was dismissed by the ld. CIT(A) and addition made by the AO was upheld.

4. We have carefully considered the rival submissions. It is seen that the ld. CIT(A) has not decided the issue on merits. We, therefore, deem it proper to restore the matter to the ld. CIT(A) to decide the issue afresh after giving due opportunity to the assessee. The assessee is also directed to make necessary compliance and furnish file requisite details before the ld. CIT(A).

10. In the result, appeal is allowed for statistical purposes.

Order pronounced on 31st July, 2024.

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Mumbai; Dated 31/07/2024
KARUNA, *sr.ps*

Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai