



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK 'SMC' BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER**

**ITA No.256/CTK/2024**

Assessment Year : 2016-17

Sunita Agarwal, C/O. Ajanta Advertisers, Jobra Road, College Square, Cuttack	Vs.	Income Tax Officer, Ward-1(1), Cuttack
PAN/GIR No.AJFPA 9375 E	..	
<b>(Appellant)</b>		<b>( Respondent)</b>

Assessee by : Shri Mohit Sheth, Adv  
Revenue by : Shri S.C.Mohanty, Id Sr DR

**Date of Hearing : 5/08/2024**  
**Date of Pronouncement : 5/08/2024**

**ORDER**

This is an appeal filed by the assessee against the order of the Id Addl/JCIT(A)-9, Mumbai dated 17.5.2024 in Appeal No.CIT(A),Cuttack/10163/2018-19 for the assessment year 2016-17.

2. Shri Mohit Sheth, Id AR appeared for the assessee. Shri S.C.Mohanty, Id Sr DR represented on behalf of the revenue.

3. The assessee has filed written submission, as follow:

BEFORE THE HON'BLE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK .

In the matter of --  
ITA No.256/CTK/2024

And

In the matter of --  
SUNITA AGARWAL  
College Square, Cuttack.  
(AJFPA9375E)

Re : Asst. Year – 2016-17

**Facts of the case –**

The assessee purchased a property during the year under consideration jointly other three coparcener – Manish Agarwal, Poonam Agarwal, and Amit Agarwal. The Property was registered on 09.09.2015.

Total cost of the Property comes to Rs. 1,71,60,080/-.

Each contributed equally and the assets acquired is duly reflected in their respective balance sheet amounting to 42,90,020/- in the year under consideration.

**THE INVESTMENT AND PAYMENT DETAILS AS UNDER ;**

<u>DATE</u>	<u>MODE OF PAYMENT</u>	<u>AMOUNT</u>
04.05.2015	CHEQUE	80,000
04.05.2015	CHEQUE	80,000
04.05.2015	CHEQUE	80,000
04.05.2015	CHEQUE	80,000
04.05.2015	CHEQUE	40,000
04.05.2015	CHEQUE	20,000
04.05.2015	CHEQUE	20,000
03.08.2015	CHEQUE	12,50,000
07.09.2015	Demand Draft	4,70,000
07.09.2015	Demand Draft	4,70,000
07.09.2015	Demand Draft	4,70,000
07.09.2015	Demand Draft	4,70,000
07.09.2015	Demand Draft	2,35,000
07.09.2015	Demand Draft	1,17,500
07.09.2015	Demand Draft	1,17,500
07.09.2015	Demand Draft	24,00,000

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07.09.2015	Demand Draft	24,00,000
07.09.2015	Demand Draft	24,00,000
07.09.2015	Demand Draft	24,00,000
07.09.2015	Demand Draft	12,00,000
07.09.2015	Demand Draft	6,00,000
07.09.2015	Demand Draft	<u>6,00,000</u>
		<b>1,60,00,000</b>

**Stamp Duty & Other Allied Expenses  
Contributed by each Co-parcener** **11,60,080**

**Total** **1,71,60,080**

All have equal investment in the property and had been duly reflected in their respective Balance Sheet in the impugned assessment year.

Hence it cannot be estimated that the whole amount of Rs.11,60,080/- is invested by the Assessee which is termed by AO as Unexplained Investments merely on the basis of assumption and surmises.

Moreover, in addition to above the amount of Rs.11,60,080/- is an expenses towards Registration duly met by each Co-parcener equally. It is not an **Income** .

  
( Mohit Sheth , Adv.)

4. Id AR has also filed balance sheet of the four purchasers as follows:

**SUNITA AGARWAL ,**  
W/o. Amit Agarwal ,  
C/o. Ajanta Adertisers,  
Jobra Road , Cuttack

Asst. Year :- 2016 -2017  
Year Ending :-31.03.2016

**CAPITAL ACCOUNT**

Opening Balance ( 01.04.2015 )	68,41,524.35	Personal Expenses	1,20,000.00
Add : <u>Income of the year</u>		( Incl. Educaiton Expenses for Children)	
Business	6,08,810.75	LIC Paid	77,427.00
Interest	3,44,718.25	Advance Tax	65,000.00
Dividend	1,831.00	HDFC Life Insurance	15,273.00
Other sources	1,50,600.00	Medical Expenses	25,000.00
Sale of Gold Ornaments	4,99,660.00	Interest paid on H. Loan	1,58,363.75
House Property	75,000.00	Bank Charges	128.22
		Wealth Tax	4,824.00
		TDS -	29,840.00
			<u>4,95,855.97</u>
<u>Add - PPF Interest</u>	-	Closing Balance ( 31.03.2016)	<u>80,26,288.38</u>
	<u>85,22,144.35</u>		<u>85,22,144.35</u>

**BALANCE SHEET AS ON 31.03.2016**

<b><u>CAPITAL</u></b>		<b><u>ASSETS</u></b>	
Sunita Agarwal	80,26,288.38	Ajanta Advertisers	28,94,327.00
		NSC - 8th Issue - (As per list)	1,30,086.00
		KVP - (As per list)	2,93,200.00
		PPF A/c	1,54,843.00
<b><u>Liabilities</u></b>		<b><u>Union Bank -</u></b>	
SBI - Housing Loan	29,65,385.75	-- S.B A/c No.407102010010856	2,07,363.96
		-- FD for 1,75,000/- dt.17.05.2012	2,37,042.00
		-- FD for 90,000/- dt.27.12.2012	1,16,229.00
		-- FD for 25,000/- dt.21.12.2015	25,478.00
		Axis Bank - S.B A/c 911010009398960	1,03,953.36
		Investment in Land & Building	42,90,020.00
		( Assessee's Share of Investments)	
		Flat A/c	17,55,000.00
		Shares & Debentures ( As per list)	3,22,898.56
		Union Bank - KBC - M.F.	15,000.00
		Sahara India Ltd.- ( As per list )	71,000.00
		UBI - Sukanya Sambhurdhi Scheme -	
		A/c No. 40710SSA00000000002	1,00,000.00
		State Bank of India - S.B A/c (Joint A/c)	7,005.25
		Cash In Hand	2,68,228.00
	<u>1,09,91,674.13</u>		<u>1,09,91,674.13</u>

**Note :-** The Property was purchased by the assessee alongwith with the other three co-parcener on 09.09.2015 for Rs.1,60,00,000/- and Stamp Duty and Registration Expenses Amounting to Rs.11,60,080/- . Total comes to Rs.1,71,60,080/- . All the four buyers contributed equally. The assessee shares comes to Rs.42,90,020/-.

**POONAM AGARWAL ,**  
C/o. Ajanta Advertisers,  
Jobra Road , Cuttack

Asst. Year :- 2016 -2017  
Year Ending :-31.03.2016

**CAPITAL ACCOUNT**

Opening Balance ( 01.04.2015 )	64,70,761.00	Personal Expenses (Incl. Education Exp. For Children )	1,60,000.00
<b>Add : Income of the year</b>		LIC Paid	79,465.00
Business	7,18,008.95	Advance Tax	65,000.00
Interest	3,28,747.25	Bank Charges	1,298.00
Dividend	7,581.00	Int. on Home Loan & Processing Charges	1,58,363.75
Other Sources	51,000.00	Wealth Tax	2,130.00
Sale of Gold	4,99,940.00	TDS -	29,614.00
House Property	75,000.00		4,95,870.75
Add - Refund from Bajaj Allianz	1,46,929.00	Closing Balance ( 31.03.2016 )	78,02,096.45
Add - PPF Interest	-		<b>82,97,967.20</b>
	<b>82,97,967.20</b>		

**BALANCE SHEET AS ON 31.03.2016**

<b><u>CAPITAL</u></b>		<b><u>ASSETS</u></b>	
Poonam Agarwal	78,02,096.45	M/s. Ajanta Advertisers	28,96,878.00
		NSC VIII Issue - ( As per details )	45,028.00
		PPF A/c	1,94,816.00
		Investment in Land & Building ( Assessee's Share of Investments )	42,90,020.00
<b><u>Liabilities</u></b>		Flat A/c	17,55,000.00
SBI - H. Loan ( As per details )	29,65,385.75	Shares & Debentures ( As per list ) .	3,85,517.53
		Union KBC - M.F	15,000.00
		Bank & Postal A/c - ( As per list )	10,45,002.67
		UBI - Sukanya Sambhurdhi Scheme - A/c No. 40710SSA00000000004	50,000.00
		Cash In Hand	90,220.00
	<b>1,07,67,482.20</b>		<b>1,07,67,482.20</b>

**Note :-** The Property was purchased by the assessee alongwith with the other three co-parcener on 09.09.2015 for Rs.1,60,00,000/- and Stamp Duty and Registration Expenses Amounting to Rs.11,60,080/- . Total comes to Rs.1,71,60,080/- . All the four buyers contributed equally. The assessee shares comes to Rs.42,90,020/-.

**MANISH AGARWAL ,**  
Prop : M/s. Badrivishal Enterprises,  
Jobra Road , CUTTACK - 3

Asst. Year :- 2016 -2017  
Year Ending :-31.03.2016

**CAPITAL ACCOUNT**

Opening Balance ( 01.04.2015 )	95,97,843.08	Personal Expenses	1,20,000.00
<u>Add : Income of the year</u>		LIC Paid	64,800.00
Business	4,06,268.79	Mediclaim	11,421.00
Interest	67,379.25	Bajaj Allianz	8,332.00
Salary	4,80,000.00	Advance Tax	20,000.00
Dividend	717.50	Bank Charges	77.17
House Rent	75,000.00	Interest on H. Loan	1,58,363.75
Sale of Old Gold	4,97,253.00	Income Tax (Firm)	1,833.75
Other Sources	96,560.00	TDS	62,204.00
			<u>4,47,031.67</u>
Add - Gas subsidy	2,315.53		
	<u>1,12,23,337.15</u>	Closing Balance ( 31.03.2016)	<u>1,07,76,305.48</u>
			<u>1,12,23,337.15</u>

**BALANCE SHEET AS ON 31.03.2016**

<b>CAPITAL</b>		<b>ASSETS</b>	
Manish Agarwal	1,07,76,305.48	CDA Land A/c ( 1/2Sh.)	3,66,559.00
		Investment in Land & Building	42,90,020.00
		( Assessee's Share of Investments)	
<b>Liabilities</b>		House Property	12,50,000.00
SBI - Housing Loan	29,65,385.75	NSC VIII Issue - ( As per list )	1,93,465.00
		M/s. Ajanta BV Media Initiative	44,29,969.65
		M/s. Badrivishal Enterprises	17,19,157.83
		Investment in Share (As per list)	2,04,664.67
		PPF A/c	1,45,767.00
		Investments in Bank - ( As per list)	8,76,278.53
	<u>1,37,41,691.23</u>	Cash In Hand	2,65,809.55
			<u>1,37,41,691.23</u>

**Note :-** The Property was purchased by the assessee alongwith with the other three co-parcener on 09.09.2015 for Rs.1,60,00,000/- and Stamp Duty and Registration Expenses Amounting to Rs.11,60,080/- . Total comes to Rs.1,71,60,080/- . All the four buyers contributed equally. The assessee shares comes to Rs.42,90,020/-.

**AMIT AGARWAL**  
C/o. Ajanta Advertisers  
Jobra Road , Cuttack

Asst. Year :- 2016-2017  
Year Ending :-31.03.2016

**CAPITAL ACCOUNT**

Opening Balance (01.04.2015)	1,13,83,158.43	Personal Expenses	1,20,000.00
<u>Add : Income of the year</u>		Interest paid on borrowed capital	1,58,363.75
Interest	57,323.00	LIP Paid	56,323.00
Business	8,40,471.87	Mediclaime	10,899.00
Dividend	1,919.50	Bank Charges	2,441.17
House Property	75,000.00	TDS	3,952.00
Sale of Old Gold	4,97,751.00	Bajaj Allianz	8,177.58
Other Sources	2,61,700.00	HDFC Life Insurance	62,100.00
			<u>4,22,256.50</u>
Add - Refund from Insurance on Maturity (HDFC)	<u>1,60,439.53</u>	Closing Balance ( 31.03.2016)	<u>1,28,55,506.83</u>
	<u><u>1,32,77,763.33</u></u>		<u><u>1,32,77,763.33</u></u>

**BALANCE SHEET AS ON 31.03.2016**

<b>CAPITAL</b>		<b>ASSETS</b>	
Amit Agarwal	1,28,55,506.83	Details of Bank - (As per list)	8,27,461.02
		House Property	12,50,000.00
		CDA Land { 1/2 Shares }	3,66,559.00
		Investment in Land & Building	42,90,020.00
		( Assessee's Share of Investments)	
<b>Liabilities</b>		NSC - 8th Issue - With accd. Int.	
SBI - Housing Loan	29,65,385.75	(As per details)	86,052.00
		M/s.Tanisha's E- World, BBSR	82,57,590.03
		Investment in Shares & Bonds -	
		(As per details)	1,69,853.79
		PPF A/c	2,04,940.00
		<b>Motor Cycle</b>	
		WDV	2,093
		Less - Depr. @ 15%	<u>314</u>
			<u>1,779</u>
		Cash In Hand	3,66,637.74
	<u><u>1,58,20,892.58</u></u>		<u><u>1,58,20,892.58</u></u>

**Note :-** The Property was purchased by the assessee alongwith with the other three co-parcener on 09.09.2015 for Rs.1,60,00,000/- and Stamp Duty and Registration Expenses Amounting to Rs.11,60,080/- . Total comes to Rs.1,71,60,080/- . All the four buyers contributed equally. The assessee shares comes to Rs.42,90,020/-.

5. It was the submission that the assessee alongwith four co-owners has purchased the property for Rs.1,71,60,080/- which included cost of the property as also the registration charges of Rs.11,60,080/- . It was the submission that the Assessing Officer, in the course of assessment proceedings, held that there is no debit transaction of Rs.11,60,080/- in the account of any of the four purchasers maintained singly or jointly for

payment of stamp duty and consequently held that Rs.11,60,080/- paid by Shri Manish Agarwal remained unexplained. The Assessing Officer, consequently turn around and made the addition in the hands of the assessee, being Smt. Sunita Agarwal. It was the submission that the cost of the property including the registration charges of Rs.1,71,16,080/- , each of the purchaser had disclosed equal share of Rs.42,90,020/- in their balance sheet. It was the submission that the balance sheet and bank account of each of the co-owners had been produced before the Assessing Officer and the same is also recognized in para 3.3 of the assessment order. It was the submission that when entire amount had been disclosed, no addition in the hands of Smt. Sunita Agarwal, the assessee was called for insofar as the entire investment has been disclosed in her books in respect of her share. It was the submission that this amount of Rs.11,60,080/- representing the stamp duty and registration charges was paid in cash by each of four co-owners. It was the submission that the amount had been withdrawn from their bank account.

6. In reply, Id Sr DR vehemently supported the order of the Assessing Officer and Id CIT(A). It was the submission that the assessee has not produced the evidence before the Id CIT(A).

7. I have considered the rival submissions. A perusal of the balance sheet of four co-owners clearly shows that the amount of Rs.42,90,020/- has been clearly disclosed in the balance sheet as on 31.3.2016. A perusal

of the assessment order at page 3 para 3.3 shows that the Assessing Officer has questioned the transaction in respect of Manish Agrawal but has turned around and made the addition in the hands of the assessee being Sunita Agarwal. The fact that four co-owners have disclosed the transaction in their balance sheet and the fact that the assessee does have adequate funds for making this investment and the assessee has also explained the source of the said funds for making the investment, the addition as made by the Assessing Officer and confirmed by the Id CIT(A) stands deleted.

8. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 5/08/2024.

Sd/-  
**(George Mathan)**  
**JUDICIAL MEMBER**

Cuttack; Dated 5/08/2024  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : Sunita Agarwal, C/O. Ajanta Advertisers, Jobra Road, College Square, Cuttack
2. The Respondent: Income Tax Officer, Ward-1(1), Cuttack
3. The Addl/JCIT(A)- 9, Mumbai
4. Pr.CIT, Cuttack
5. DR, ITAT, Cuttack
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Cuttack**