

IN THE INCOME TAX APPELLATE TRIBUNAL“C” BENCH  
MUMBAI  
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &  
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER

I T A. No. 285/MUM/2024  
(Assessment Year: 2018-19)

IshwarSatyanarayanGilada, Ground Floor, Alibhai Marg, Grant Road (E), Mumbai-400007.	Vs.	I.T.O. National e – Assessment Centere, New Delhi.
PAN/GIR No. AASPG4600N		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	Shri Rajiv Khandelwal & Shri Akash Kumar.AR
Revenue by	Shri H.M. Bhatt.Sr. DR

सुनवाई की तारीख/Date of Hearing	06.07.2024
घोषणा की तारीख/Date of Pronouncement	12.08.2024

**ORDER**

**PER PAVAN KUMAR GADALE, JM:**

The assessee has filed the appeal against the National Faceless Appeal Centre (NFAC) Delhi/CIT(A) passed u/sec 143(3) and 250 of the Act. The assessee has raised the following grounds of appeal:

*The Commissioner of Income-tax (Appeals) at National Faceless Appeal Centre (hereinafter referred to as the CIT(A)) erred in upholding the action of the Officer at the National e-assessment*

*Centre (hereinafter referred to as the Assessing Officer) in making an addition of Rs 78,30,500 under section 56(2)(x) of the Act, being difference between the consideration paid on acquisition of an immovable property and the stamp duty value of the said property.*

*The appellant contends that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have upheld the action of the Assessing Officer inasmuch as he has not appreciated the facts of the case in its entirety and hence, the impugned addition made by the Assessing Officer is bad in law and needs to be deleted.*

*The appellant further, contends that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have upheld the action of the Assessing Officer in invoking the provisions of section 56(2)(x) of the Act inasmuch as the provisions of the said section, in terms, are not applicable to the case of the appellant and hence, the impugned addition made by the Assessing Officer is bad in law and needs to be deleted.*

*The appellant further, contends that on the facts and in the circumstances of the case and in law, the CIT(A) failed to consider the stamp duty value as at the date of allotment (booking) of the immovable property to the appellant and hence, the impugned addition made by the Assessing Officer needs to be revised.*

*The appellant craves leave to add to, alter or amend the afore stated ground of appeal.*

2. The brief facts of the case are that, the assessee is a doctor by profession and has filed the return of income for the A.Y 2018-19 electronically on 24.07.2018 disclosing a

total income of Rs. 12,41,740/-. Subsequently the case was selected for limited scrutiny assessment under the E-assessment Scheme, 2019 for "verification of Investment in Immovable Property". Accordingly the Assessing Officer (A.O) has issued notice u/sec 143(2) and u/sec 142(1) of the Act along with questionnaire. The AO found that the assessee has purchased two properties in the F.Y 2017-18 (i) in the assessee's name and wife Mrs. Sindhu Gilada F. No. 108A, 1<sup>st</sup> Floor, Tulsi Chambers, CST Road, Chembur & (ii) Property Flat No. 108, 1<sup>st</sup> Floor, Tulsi chambers, CST Road, Chembur purchased in the assessee's name and daughter Dr. Prapti Gilada (daughter). In compliance to notice u/sec 142(1) of the Act, the assessee has submitted/ uploaded the copy of purchase deeds, bank statements, loan certificates in support of acquisition of the two properties. Further, the assessee has submitted the valuation report dated 02.11.2020 of the two properties and the Valuer has determined the cost at Rs.84,645/-per Sq. meter against the stamp value of authority value of Rs1,53,900/- per sq. meter. Further the AO on perusal of sale deeds and other documents found that there is a difference in value and dealt at page 2 Para 6 of the order as under:

<i>Property details</i>	<i>Purchased consideration</i>	<i>Stamp value of property as per Jt. Sub-Registrar</i>	<i>Difference</i>	<i>Assessee's share</i>
<i>Flat No. 108, 1<sup>st</sup> Floor, tulasi Chambers CST Road Chembur</i>	<i>1,10,00,000</i>	<i>1,92,40,500</i>	<i>82,40,500</i>	<i>41,20,250</i>
<i>Flat No. 108A, 1<sup>st</sup> Floor, tulasi Chambers CST Road Chembur</i>	<i>1,10,00,000</i>	<i>1,74,20,500</i>	<i>74,20,500</i>	<i>37,10,250</i>
			<i>Total</i>	<i>78,30,500/-</i>

3. Subsequently, the AO has issued show cause to add the difference amount of Rs. 78,30,500/- to the return of income of the assessee u/sec 56(2)(x) of the Act and there was no compliance. The AO has considered the facts with respect to purchase of properties F.No.108 & F.No.108A as assessee is a co-owner in two properties. The A.O has considered the provisions of Sec. 56(2)(x)(b) of the Act and on the disputed issue of valuation of properties, the A.O has referred to technical unit of valuation. Since the valuation report is still awaited and the case is getting time barred on 31.04.2021. Therefore the AO subject to the outcome of the valuation report has made an addition of difference amount of Rs.78,30,500/- under income from other sources u/sec 56(2)(x) of the Act and assessed the total income of Rs.92,17,240/- and passed the order u/sec 143(3) r.w.s 144B of the Act dated 23.04.2021.

4. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and since there was no compliance by the assessee to notices. Therefore the CIT(A) considering the information on record has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

5. At the time of hearing, the Ld. AR submitted that the CIT(A) erred in confirming the action of the AO and sustaining the addition of Rs. 78,30,500/- being difference between the consideration paid on acquisition of immovable properties and stamp value of the property as per SRO. The A.O on the valuation of properties has referred to technical unit of valuation. Since the valuation report is still awaited and the case is getting time barred on 31.04.2021. Therefore the AO subject to the outcome of the valuation report made the addition. The Ld. AR substantiated the submissions with valuation report dated 25.04.2022 received by the assessee subsequent to the passing of the order u/sec 143(3) of the Act dated 23.04.2021 and the Ld.AR mentioned that the assessee has a good case on merits and shall substantiate with the material evidences and prayed for an opportunity to explain before the lower authorities. Per Contra, the Ld. DR supported the order of the CIT(A).

6. We heard the rival submissions and perused the material on record. The sole crux of the disputed issue as envisaged by the Ld. AR that the CIT(A) has erred in confirming the addition by the AO u/sec 56(2)(x) of the Act of Rs.78,30,500/- in respect of two properties F.No.108 & F.No.108A where the assessee is a co owner having equal share which is not disputed. Whereas the A.O has invoked the provisions of Sec. 56(2)(x)(b) of the Act and further on the disputed issue of valuation of properties, the A.O has referred to technical unit of valuation cell. Since the valuation report is still awaited and the case is getting time barred on 31.04.2021. Therefore the AO subject to the outcome of the valuation report has made an addition of difference amount of Rs.78,30,500/- under income from other sources u/sec 56(2)(x) of the Act. Whereas in the Appellate proceedings, the CIT(A) has issued the notices of hearing on various dates referred at Page 5 Para 5 of the order, but there was no response and thus the Ld.CIT(A) came to a conclusion that the assessee is not interested and decided the appeal based on the information available on record. Whereas the assessee has raised grounds of appeal challenging the additions of the A.O and we find that the A.O has made reference to valuation cell for valuation of the properties and the valuation report was not received before the completion of assessment. Whereas the Ld. AR substantiated the submissions with valuation report dated 25.04.2022 received by the assessee subsequent to the passing of the order u/sec 143(3) of the

Act. Further there could be various reasons for non appearance before the CIT(A) which cannot be overruled. Therefore, we considering the principles of natural justice shall provide one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, we set aside the order of the CIT(A) and remit the entire disputed issues to the file of the Assessing Officer and to consider the valuation report dated 25.04.2022 and adjudicate afresh. The assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information. And we allow the grounds of appeal of the assessee for statistical purposes.

7. In the result, the appeal filed by assessee is allowed for statistical purposes.

Order pronounced in the open court on 12.08.2024.

Sd/-  
**(OMKARESHWAR CHIDARA)**  
**ACCOUNTANT MEMBER**  
Mumbai, Dated:12/08/2024

Sd/-  
**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

KRK

**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,  
(Dy./Asstt. Registrar)ITAT,

Mumbai