

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER  
&  
SHRI SUNIL KUMAR SINGH, HON'BLE JUDICIAL MEMBER

**I.T.A. No. 1050/Mum/2024**  
**Assessment Year: 2014-15**

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| <b>Mr. Ajay Laxmidas Sompura</b><br>II, 3 <sup>rd</sup> Floor<br>NandDeep Plot No. 371<br>Shradhanand Road Extention<br>Vile Parle (E)<br>Mumbai - 400057<br><b>[PAN: AAJPS0861J]</b> | Vs | <b>Income Tax Officer, 25(2)(1),<br/>Mumbai</b> |
| <b>अपीलार्थी/ (Appellant)</b>   |    | <b>प्रत्यर्थी/ (Respondent)</b>                 |

|               |   |
|---------------|---|
| Assessee by : | Shri K. Gopal & Shri Akhilesh Deshmukh, A/R |
| Revenue by :  | Shri R.R. Makwana, Sr. D/R                  |

सुनवाई की तारीख/**Date of Hearing** : 28/08/2024  
घोषणा की तारीख/**Date of Pronouncement** : 28/08/2024

**आदेश/ORDER**

**PER NARENDRA KUMAR BILLAIYA, AM :**

This appeal by the assessee is preferred against the order dated 12/02/2024 by NFAC Delhi [in short 'ld. CIT(A)] pertaining to AY 2014-15.

2. The grievance of the revenue reads as under:-

*"1. The Ld. National Faceless Appeal Center (hereinafter referred to as 'The NFAC') erred in upholding the validity of the assessment order which is undated and the same was served on the Appellant on 27/01/2017. Thus, the Appellant presumes that the same was not passed before the due date i.e. 31s December, 2016.  
(Original GOA a and b.)*

*2. The Ld. NFAC erred in confirming the addition of Rs. 44,17,500/- made by the Ld. AO invoking provisions of the section 69 of the Income tax Act, 1961 (hereinafter referred to as the Act) without appreciating the facts and circumstances of the case.*

*3. The Ld. NFAC failed appreciate that the flat no 33 in Nand Deep was purchased from R.D. Construction Co. vide agreement dated 12/05/1992 with a consideration of Rs. 3,51,000/-, however, the same was not registered. The purchase agreement was registered along with deed of conveyance on 31/12/2013 on which the stamp duty*

*was paid as per the market value determined by the Stamp Duty authorities as on 31/12/2013. Thus, no investment was made during the previous year relevant the impugned assessment year. Hence, the addition of Rs. 44,17,500/- is not at all justified and the same may be deleted.*

*4. Without prejudice to other grounds of appeal, the Ld. NFAC erred in confirming the addition of Rs. 44,17,500/- by invoking provisions of section 56(2)(vii) of the Act without appreciating the fact that the said section is not applicable on the facts and circumstances of the Appellants case."*

3. At the very outset, the Id. Counsel for the assessee stated that he is not pressing Ground No. 1. Therefore, the same is dismissed as not pressed.

4. The sum and substance of the grievance argued before us relates to the addition of Rs. 44,17,500/- made under head "income from other sources".

5. The underlying facts in the impugned issue are that, during the course of scrutiny assessment proceedings, as per the AIR details, the AO came to know that the assessee has purchased immovable property valued at Rs. 44,17,500/-. The assessee was asked to furnish the details as the said purchase was not declared but was shown only after the AO raised questions regarding the property.

5.1. The assessee strongly contended that the said property was purchased in AY 1992-93 but was never registered at that time and only in AY 2014-15, the said property was registered and stamp duty was paid at market value of Rs.44,17,500/-. It was brought to the notice of the AO that the said property was purchased for Rs.3,51,000/-. The reply of the assessee did not find any favour with the AO who was of the opinion that, the assessee never produced any proof of payment to purchase the said property at Rs.3,51,000/- in FY 1992-93. The AO proceeded by making addition of Rs. 44,17,500/- as unexplained investment u/s 69 of the Act.

6. The assessee carried the matter before the Id. CIT(A) but without any success.

7. Before us, the Id. Counsel for the assessee drew our attention to the agreement dated 12/05/1992 and pointed out that the said property was agreed to be purchased on 12/05/1992, for a consideration of Rs.3,51,000/-. The Id. Counsel further contended that the said property was registered on 15/01/2014 when the stamp duty was paid on the market value of Rs.44,17,500/-. The Id. Counsel for the assessee strongly contended that the property was never purchased for Rs.44,17,500/- but only for Rs.3,51,000/- and that too in May, 1992. The Id. Counsel for the assessee further pointed out that NandDeep Co-operative Housing Society, entered the name of the assessee as the owner of the premises and started collecting maintenance charges. The Id. Counsel concluded by stating that as per the relevant provisions of the Act, the assessee got the property transferred in his name in May, 1992, for a consideration of Rs.3,51,000/-. Therefore, the impugned addition should be deleted.

The Id. D/R placed strong reliance on the assessment order and the order of the Id. First Appellate Authority.

8. We have carefully considered the orders of the authorities below. The undisputed fact is that, as per the agreement dated 12/05/1992, the assessee got the possession of the said property for a consideration of Rs.3,51,000/- which is also evident from copy of the agreement placed at pages 15 to 29 of the paper book. It is also not in dispute that the said property was registered on 15/01/2014 for a market value of Rs.44,17,500/- on which the stamp duty was paid as per the registration documents placed at pages 30 to 34 of the paper book. In the registry itself, there is a reference to the agreement dated 12/05/1992 wherein

consideration has been mentioned as Rs.3,51,000/-. It has been specifically mentioned in the registered sale deed at page 3 that “*This sale deed is made so that the Purchaser can pay Stamp Duty & Register the title document pertaining to the said Property*” and thereafter reference is made to the original agreement dated 12/05/1992 through which the purchaser acquired the right, title and interest in the said property.

8.1. The receipt of the maintenance charges by NandDeep Co-operative Housing Society, dated 01/01/1993, shows assessee as the owner which means that even the Society has recognized the ownership of the assessee way back in 1993.

9. Considering the evidence discussed hereinabove, we are of the considered view that the assessee had purchased the property in 1992 for a consideration of Rs.3,51,000/- which it got registered in the year under consideration and paid the stamp duty accordingly. Therefore, the agreement value has to be considered in respect of the impugned transactions.

10. Considering the facts of the case in totality, we do not find any merit in the impugned addition and the AO is directed to delete the same.

11. In the result, appeal of the assessee is partly allowed.

**Order pronounced in the Court on 28<sup>th</sup> August, 2024 at Mumbai.**

*Sd/-*  
(SUNIL KUMAR SINGH)  
JUDICIAL MEMBER

*Sd/-*  
(NARENDRA KUMAR BILLAIYA)  
ACCOUNTANT MEMBER

Mumbai, Dated 28/08/2024

*SC S.P.*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

**Assistant Registrar**  
आयकर अपीलीय अधिकरण  
ITAT, Mumbai