

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, KOLKATA

डॉ. मनीष बोरड, लेखा सदस्य

एवं

श्री संजय सरमा, न्यायिक सदस्य

के समक्ष

Before

Dr. Manish Borad, Accountant Member

&

Shri Sonjoy Sarma, Judicial Member

I.T.A. No.14/KOL/2024

Assessment Year: 2015-16

Shweta Singh

.....

Appellant

204, tower No. 15, MIG colony,

Uttarayan, Matigara, Siliguri-734010.

(PAN: BNDPS2756J)

Vs.

Income Tax Officer

.....

Respondent

Ward-2(3), Siliguri, W.B.

Appearances by:

Shri Vikash Surana, AR appeared for Appellant.

Shri Pradip Kumar Biswas, Addl. CIT appeared for Respondent.

Date of concluding the hearing : 26.08.2024

Date of pronouncing the order : 04.09.2024

ORDER

Per Dr. Manish Borad, Accountant Member:

This appeal filed at the instance of the assessee pertaining to the Assessment Year (in short “AY”) 2015-16 is directed against the order passed u/s 250 of the Income Tax Act, 1961 in short the “Act”) by Ld. Commissioner of Income-tax, (Appeals), National Faceless Appeal Centre (NFAC), Delhi [in short Ld. “CIT(A)”] dated 06.11.2023 arising out of the assessment order framed u/s. 143(3)/144 of the Act by Income Tax Officer, Ward-2(3), Siliguri dated 11.12.2017.

2. Grounds of appeal raised by the assessee read as under:

“1. For that the Ld. CIT(A) - NFAC erred in confirming the addition made by A. O. Rs. 1357214 towards ' Undisclosed Investment' in purchase of land when the advance for purchase made during F.Y. 2007-08 from Appellant's Bank A/c , Consideration money also paid by appellant's father-in-law during F.Y. 2014-15 from his bank a/c and further Stamp duty & registration fees were borne by Appellant's husband from his Bank A/c, i.e. all payments were made through disclosed sources

2. For that the Ld. CIT(A) - NFAC further erred in confirming the addition of Rs. 5201911 made by A.O. u/s 56(2)(vii)(b)(ii) ignoring the "Proviso" to said sub-section; the advance for purchase of land made during F.Y. 2007-08 as per Sale Agreement dated 12/10/2007 , the addition thus made on the basis of stamp valuation on date of registration 19/07/2014 is thus bad in law .

3. For that the Appellant craves leave to add, alter any ground/s of appeal before or at the time of hearing.”

3. At the outset, Ld. Counsel for the assessee fairly admitted that various details which were required to be filed before the lower authorities for explaining the alleged investment in purchase of land could not be filed and, therefore, prayed that an opportunity may be granted to furnish such details to the lower authorities.

4. On the other hand, Ld. DR stated that assessee has been provided sufficient opportunity and the assessee has wilfully not appeared before the lower authorities and, therefore, the finding of the lower authorities may please be confirmed.

5. We have heard the rival contentions and perused the material placed before us. We notice that the assessee an individual e-filed her return for AY 2015-16 on 31.03.2016 declaring income of Rs.2,96,250/-. On the basis of the information about large investment in property, case selected for limited scrutiny under CASS followed by serving of valid notice u/s. 143(2) and 142(1) of the Act. On few occasions, details as called for by the Ld. AO were

filed. But thereafter, on several dates of hearing satisfactory reply was not furnished. Ld. AO noticed that the immovable property in question is purchased jointly by Smt. Shweta Singh and her husband Shri Rahul Singh at a consideration of Rs.15,21,178/- but value of the said property adopted by the Registering Authorities was Rs.1,19,25,000/-. Considering the stamp duty paid on this property and registration fee paid, Ld. AO computed the income of the assessee at Rs.68,55,380/- making addition of undisclosed investment at Rs.13,51,214/- and u/s. 56(2)(vii)(b)(ii) at Rs.52,01,911/- and assessed the income at Rs.68,55,380/-. The Ld. AO has framed best judgment assessment u/s. 144 of the Act in the following manner:

On perusal of the aforesaid registration deed, it was seen that the set forth value of the property under consideration by the seller and the purchaser, i.e. jointly by Smt. Shweta Singh & Sri Rahul Singh, was Rs.15,21,178/-, whereas the value of the said property adopted by the Registering Authority was Rs.1,19,25,000/-. And the total Stamp Duty paid on this Property was Rs.9,54,000/- and Registration Fees paid was Rs.2,39,250/-. Hence the addition is being made under 2 heads i.e. first on the set forth value and secondly on the value adopted by the Registering Authority as given below :

1. **Addition on account of Undisclosed Investment** : The total consideration for sale of the property was Rs.15,21,178/- plus total Stamp Duty of Rs.11,93,250/- which aggregates to Rs.27,14,428/-. And 50% of this amount being Rs.13,57,214/- is attributable to Smt. Shweta Singh. Hence Rs.13,57,214/- is added in the hand of Smt. Shweta Singh as undisclosed investment and simultaneously penalty proceedings u/s.271(1)(c) is initiated for the same.
2. **Addition u/s.56(2)(vii)(b)(ii) as Income from other sources** being 50% of the difference between the actual sale consideration of Rs.15,21,178/- and Rs.1,19,25,000/- being the total Value adopted by the Registering Authority which amounts to Rs.52,01,911/-.

Hence, in view of the foregoing, the Assessee's total taxable income is determined as below :

Returned Income by the Assessee	=	Rs. 2,96,250/-
ADD : 1. Undisclosed Investment as discussed in Para 1 above	=	Rs.13,57,214/-
2. Addition u/s.56(2)(vii)(b)(ii) as discussed in Para 2 above	=	Rs.52,01,911/-
TOTAL TAXABLE INCOME	=	<u>Rs.68,55,380/-</u>
[Rounded]		

6. Aggrieved, assessee preferred appeal before the Ld. CIT(A) but going through the impugned order, we notice that two dates of hearing are falling during the Covid-19 Pandemic period and on one occasion assessee could not make compliance and thus failed to succeed on any of the grounds. Before us, assessee has filed detailed submission stating that the purchase agreement was originally entered on 12.10.2007 executed by assessee's father in law Randhir Bahadur Singh for a total consideration of Rs.30,42,356/- against which an advance bayna payment of Rs.14,82,000/- was paid on 12.10.2007. Thereafter, certain disputes arose on the transfer of land between the sellers. In the dispute one of the joint sellers accepted to sale his 50% share in land to the assessee/ the assessee's father in law. Referring to these details it has been claimed that the purchase consideration should be adopted on the basis of the stamp duty value of the property as on 12.10.2007 and not the one taken by the AO in the assessment order.

7. Considering all these facts, we find that it would be fair and appropriate for both the parties if the issues raised before us are restored to the file of the Ld. jurisdictional AO for deciding the matter afresh after taking into consideration the facts of the case mainly about the purchase agreement dated 12.10.2007 and the events happened thereafter and also the payment of consideration by the assessee /her husband/her father in law and then decide in accordance with law. Accordingly, the finding of the Ld. CIT(A) is set aside and all the issues raised on merits are restored to the file of the AO for de novo adjudication. Needless to say that assessee should be given adequate opportunity of being heard and assessee to also avoid adjournments unless otherwise required for reasonable cause.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 04th September, 2024.

Sd/-
(Sonjoy Sarma)
Judicial Member
Dated : 04.09.2024

Sd/-
(Dr. Manish Borad)
Accountant Member

J.D. Sr. PS.

Copy of the order forwarded to:

1. **Appellant – Sm. Shweta Singh**
2. **Respondent – ITO, Ward-2(3), Siliguri**
3. CIT(A), NFAC, Delhi
4. CIT-
5. Departmental Representative
6. Guard File.

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata