

आयकर अपीलिय अधिकरण  
दिल्ली पीठ "एसएमसी", दिल्ली  
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC", DELHI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं.2277/दिल्ली/2024 (नि.व. 2017-18)

ITA No.2277/DEL/2024 (A.Y.2017-18)

Ram Mangli Jassi,  
80/301, Sector I, Gole Market, R.K Ashram Marg,  
DIZ Area, Delhi 110001

PAN: APBPJ-2828-P

..... अपीलार्थी/Appellant

बनाम Vs.

Income Tax Officer, Assessment Unit,  
Income Tax Department, Central Delhi,  
Delhi

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Vishal Mishra, Chartered Accountant  
प्रतिवादीद्वारा/ Respondent by : Shri Sanjay Kumar, Sr. DR  
सुनवाई की तिथि/ Date of hearing : 01/10/2024  
घोषणा की तिथि/ Date of pronouncement: : 14/10/2024

आदेश/ORDER

**PER VIKAS AWASTHY, JM:**

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as 'the CIT(A)') dated 11.03.2024, for assessment year 2017-18.

2. Shri Vishal Mishra, appearing on behalf of the assessee submitted that during the period relevant to assessment year under appeal, the assessee purchased immovable property in the joint name with her husband Shri Navtej

Jassi. The said immovable property was purchased at the cost of Rs.42,00,000/- after availing loan facility from Can Fin Homes Ltd., Rs.40,00,000/-. The Assessing Officer (AO) observed that circle rate of property is Rs.51,69,104/- therefore, he proposes to make addition of difference between the purchase price and the circle rate. The assessee explained before the AO that the actual market rate of property at the time of purchase was below the circle rate applicable to the immovable property. The AO without referring valuation of the immovable property to the Valuation Officer made addition of the difference between purchase price and the circle rate i.e. Rs.9,69,104/-. The Id. Counsel for the assessee further pointed that the property was purchased in joint names, however, the AO has made entire addition in the name of assessee. If, at all any addition was required to be made after referring the valuation to the Valuation Officer, the addition could be made only to the extent of assessee's share in the property. The entire addition cannot be made in the hands of assessee.

3. Per contra, Shri Sanjay Kumar representing the department vehemently defending the impugned order prayed for dismissing appeal of the assessee. He submitted that the assessee never asked for reference to the Valuation Officer for valuation of immovable property.

4. Both sides heard, orders of the authorities below examined. The solitary issue in appeal is qua addition of Rs.9,69,104/- made u/s. 56(2)(vii)(b) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). It is an undisputed fact that the assessee had purchased immovable property in joint name with her husband Shri Navtej Jassi for Rs.42,00,000/-. It is also not disputed that the circle rate at the time of purchase was Rs.51,69,104/-. The contention of the assessee is

that the market rate of property at the time of purchase was less than the circle rate. Section 50C of the Act provides for reference to Valuation Officer where the assessee claims before the Assessing Officer that the value adopted by the Stamp Valuation Authority u/s. 50C(1) of the Act exceeds the fair market value of property as on the date of transfer. In the instant case the AO without seeking valuation report from the Valuation Officer made addition of the difference between the purchase price and the circle rate. Further, the AO made addition of the entire amount (difference between the purchase price and the circle rate) in the hands of the assessee, whereas, the property was purchased in the joint names i.e. in the name of assessee and her husband.

4.1. I find merit in the submissions of Counsel for the assessee. I deem it appropriate to restore this issue back to the file of AO for *denovo* assessment after seeking valuation report from the Valuation Officer as on the date of purchase of property. Thereafter, still any addition is required to be made based on the valuation report, the addition shall be restricted to the extent of assessee's share in the property.

5. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Monday the 14<sup>th</sup> day of October, 2024.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 14/10/2024

**NV/-**

**प्रतिलिपि अग्रेषितCopy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI