

**IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH, COCHIN**

Before Shri Satbeer Singh Godara, Judicial Member and  
Shri Amarjit Singh, Judicial Member

**ITA No. 95/Coch/2024**  
(Assessment Year: 2015-16)

Bhakhavalsalam Ramdas 01 M.R. Raman Chettair Son T.B. Road, Palakkad 678014 [PAN: ACMPR3451L]	vs.	Income Tax Officer Ward - 2, Palakkad
(Appellant)		(Respondent)

Appellant by:	Shri Suresh Kumar, CA
Respondent by:	Smt. V. Swarnalatha, Sr. D.R.

Date of Hearing:	19.08.2024
Date of Pronouncement:	23.10.2024

**ORDER**

Per Bench

This assessee's appeal for A.Y. 2015-16 arises against the National Faceless Appeal Centre, Delhi [CIT(A)]'s DIN & Order No. ITBA/ NFAC/S/250/2023-24/1058716340(1) dated 13.12.2023 in proceedings u/s. 250 of the Income Tax Act, 1961 (the Act).

Heard both the parties. Case file perused.

2. It emerges at the outset that the assessee's sole substantive ground raised herein challenges the correctness of both the learned lower authorities' invoking section 56(2)(vii)(b) addition of Rs.1,06,45,000/- which admittedly represents the difference between his actual purchase price and the stamp valuation adopted by the registration authorities concerned. Learned counsel seeks to distinguish the

application of the impugned provision that both the lower authorities have neither examined the distracting factors in the valuation of the assets purchased nor have they made any reference to the DVO under the 3<sup>rd</sup> proviso therein. Learned counsel claims that this latter argument is indeed over and above the assessee's stand in principle that the above statutory provision itself does not apply in the given facts and circumstances of the case.

3. Learned Sr. D.R. has drawn strong support from both lower authorities' action making the impugned addition once they have noticed the difference between the assessee's actual purchase price vis-à-vis the stamp valuation of the relevant capital asset adopted in the registration process. She further claims that before an assessee pleads the above reference to the DVO before the tribunal for the first time, it was his mandatory onus to object to the stamp valuation during the course of assessment itself. We don't find any merit in the Revenue's instant last argument going by *Sunil Kumar Agarwal v. CIT* [2014] 373 ITR 83 (Cal) holding that section 50C(2) reference to the DVO; adopted in the 3<sup>rd</sup> proviso to sec.56(2)(vii)(b) is indeed mandatory in nature and is not dependent on the concerned taxpayer raising such objections before the Assessing Officer.

4. Faced with this situation, we deem it appropriate to direct the Assessing Officer to reexamine the entire issue afresh after making the reference to DVO subject to a rider that any consequential addition shall be indeed subject to assessee raising all factual and legal arguments in relevant proceedings which shall be adjudicated as per law. Ordered accordingly.

5. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open court on 23<sup>rd</sup> October, 2024.

Sd/-  
(Amarjit Singh)  
Accountant Member

Sd/-  
(Satbeer Singh Godara)  
Judicial Member

Cochin, Dated: 23<sup>rd</sup> October, 2024

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar  
ITAT, Cochin