

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH “K (SMC)”, MUMBAI**

**BEFORE SHRI MS KAVITHA RAJAGOPAL, JUDICIAL MEMBER  
AND  
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.2371/M/2024  
Assessment Year: 2018-19**

<b>Husain Asgarali Bhanpurawala</b> 36/40, Dadoji Kondeo Marg, Gulzar Apt., Byculla (E.), Mumbai- 400008. <b>PAN: AHZPB3362L</b>	<b>Vs.</b>	<b>Income Tax Officer- NFAC</b> Circle 6(1)(2), Room No. 506, Aaykar Bhavan, Churchgate, Mumbai- 400020.
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for :**

**Assessee by** : None

**Revenue by** : Shri Kiran Unavekar, SR. D.R.

**Date of Hearing** : 03 . 10 . 2024

**Date of Pronouncement** : 24 . 10 . 2024

**ORDER**

**Per : Ratnesh Nandan Sahay, Accountant Member:**

1. This appeal has been filed by the appellant against the Order of the Ld. CIT (Appeals) passed u/s. 250 of the Income Tax Act [the ‘Act’ in short]

vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1057348638(1)

Dated 26/10/2023 for the Assessment Year 2018-19.

2. Following grounds of appeal have been raised by the appellant:

1. *“The CIT(A), on facts and circumstances of the case and in law, erred in holding that the AO was correct in re-opening the Assessment u/s. 148 of the IT Act, 1961:  
The Appellant prays that the assessment made in gross violation of the provisions of the Act be quashed and that the returned total income of Rs.8,12,580/- be accepted and the addition made to such returned income of Rs.34,01,000/- be deleted and the total income be assessed at Rs.8,12,580/-*
2. *The Appellant submits that CIT (A) has erred in holding that AO was correct and on facts, in conducting the proceedings and in passing the order in serious violation of the provisions of natural justice on various counts including on account of not examining the evidences produced by your appellant during the course of assessment and ignoring the same,*
3. *On facts and circumstances of the case and in law, the Learned Assessing Officer erred in making addition of Rs.34,01,000/- to taxable income of the Appellant under head Income from Other Sources u/s. 56(2)(x) being excess of stamp value over purchase consideration.*
4. *The Ld. AO further erred in considering the date of purchase of the immovable property as 29.07.2017 instead of the date of allotment of flat i.e. 10.11.2011 for calculation of Stamp duty value without considering the fact that the Appellant had entered into Tri-Party Agreement wherein Mr. Anant Doshi had transferred his Original rights with all terms and consideration along with confirmation of builder M/s. Qaswa Enterprises to the Appellant.*
5. *The Appellant craves leaves to alter, amend, withdraw or substitute any ground or grounds or to add any new ground or grounds of appeal on or before the hearing.”*

3. The facts of the case, in brief, are that the appellant is an individual earning his income from salary and other sources. During the assessment year under consideration, the case of the assessee was selected for compulsory scrutiny citing reasons as “specific information pointing tax evasion has been received from other agency”. As per SFT data available with the Ld. AO, the appellant had purchased immovable property i.e. office no. 604, 6<sup>th</sup> floor in Levata situated at 62-64-66, Nagdevi Street, Mumbai- 400003 on 29/07/2017 for an amount of Rs.23,50,000/-, whereas, the stamp value of the property was at Rs.57,51,000/-. The Ld. CIT(A) issued show cause notice to the appellant and asked the assessee to explain why there is a difference in the stamp value of Rs.34,01,000/- (57,51,000 – 23,50,000) should not be treated as income from other sources as per the provision of section 56 (2)(x) of the Act. According to the Ld. AO, despite given several opportunities to explain the difference, the appellant could not submit any evidence before the Ld. AO to explain the difference. The Ld. AO, therefore, added a difference u/s. 56(2)(x) of the Income Tax Act.
4. Aggrieved by the order of the Ld. AO, the appellant filed appeal before the Ld. CIT(A). Before the Ld. CIT(A) also, the assessee did not furnish any evidence, the self serving letters of the builders, acquisition of the land to Mr. Jayesh Joshi and therefore, failed to establish the veracity of

entire gamut of transaction entered into by him. The assessee also submitted a valuation report but even that report given the valuation of the property of the year 2011, whereas, the property was registered on 21/07/2017. The Ld. CIT(A), therefore, dismissed the appeal of the assessee for want of evidence. Aggrieved by the order of the Ld. CIT(A), this appeal has been preferred before us. During the appellate proceedings before us, the appellant submitted that reasonable opportunity of being heard was not afforded to the assessee to explain its case which is non valuation of the principles of natural justice.

5. We have considered the facts of the case and the submissions made by the appellant and we think it proper to remand the matter back of the file of the Ld. CIT(A) to give the appellant reasonable opportunity of being heard before deciding the issue on merit. The appellant is also directed to appear before the Ld. CIT(A) and submit all necessary documents in support of its claim that why there is difference between the stamp value of the property and the actual sale of the property.
6. In the result, the appeal is allowed for statistical purpose.

**Order pronounced in the open court on 24.10.2024.**

**Sd/-**  
**KAVITHA RAJAGOPAL**  
**JUDICIAL MEMBER**

**Sd/-**  
**RATNESH NANDAN SAHAY**  
**ACCOUNTANT MEMBER**



Mumbai, Dated: 24.10.2024.

*Snehal C. Ayare, Stenographer*

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.