

आयकर अपीलिय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri Manjunatha G., Accountant Member
and
Shri K. Narasimha Chary, Judicial Member

आ.अपी.सं / **ITA No.948/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2022-23)

Gemini Edibles and Fats India Limited Hyderabad [PAN : AADCG5150F]	Vs.	Deputy Commissioner of Income Tax Circle-2(1) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri A.V.Raghuram, AR	
राजस्व द्वारा / Revenue by::	Shri Srinath Sadanala, DR	
सुनवाई की तारीख / Date of hearing:	20 / 11 / 2024	
घोषणा की तारीख / Date of Pronouncement:	20 / 11 / 2024	

आदेश / ORDER

PER. MANJUNATHA G., A.M:

This appeal filed by the assessee is directed against the order dated 24/07/2024 of the learned Commissioner of Income Tax (Appeals) [Learned CIT(A)] relating to A.Y.2022-23.

2. The brief facts of the case are that the appellant, GEMINI EDIBLES & FATS INDIA LIMITED filed its return of income for the assessment year 2022-23 on 25/11/2022, declaring total income of Rs.10,30,78,81,280/- under normal provisions of the Income tax Act, 1961 ("the Act"). The return of income filed by

the assessee has been processed and intimation u/s 143(1)(a) of the Act has been issued, making an addition of Rs.4,03,53,550/-u/s 56(2)(x) of the Act, towards difference in value of property purchased by the assessee as per tax audit report, where the tax auditor has quantified the difference between guideline value of the property and consideration paid as per registered sale deed.

3. The assessee challenged the addition made by the Assessing Officer u/s 56(2)(x) of the Act, before the Ld.CIT(A) and submitted that the appellant has disputed the difference in value of the property before the Sub Registrar and the same has been forwarded to the District Registrar for his consideration. The District Registrar remanded the matter back to the Sub Registrar for determination of fair market value of the property. Therefore, submitted that since the dispute in the value of property is not resolved by the authorities, the matter may be remanded back to the Assessing Officer for determination of fair market value of the property. The Ld.CIT(A) after considering the submissions of the assessee, rejected the explanation and sustained the additions made by the Assessing Officer towards difference in value of property u/s 56(2)(x) of the Act, by holding that the dispute between the appellant and the stamp duty authorities has not come to any final conclusion, therefore, it is immaterial to discuss the issue in detail and thus, the additions made by the CPC based on tax audit report is in accordance with law and thus, sustained the additions made by the Assessing Officer.

4. Aggrieved by the order of the order of the Ld.CIT(A), the assessee is now in appeal before Tribunal.

5. The learned counsel for the assessee submitted that although the Ld.CIT(A) is aware of the fact that the assessee disputed the guideline value of the property before the stamp duty authorities and the same is pending for consideration, he erred in dismissing the appeal filed by the assessee and upholding the addition made by the Assessing Officer u/s 56(2)(x) of the Act. The learned counsel for the assessee referring to letter addressed to Joint Sub Registrar, East Godavari District dated 17/06/2021 and the letter addressed by District Registrar to the Joint Sub Registrar dated 12/06/2023, submitted that there is no dispute with regard to the fact that the appellant has disputed the value of the property and the same is under consideration from the authorities. These facts were brought to the notice of the Ld.CIT(A), and the assessee has also requested for reference to DVO for ascertaining the correct fair market value of the property, but the Ld.CIT(A) rejected the explanation by the assessee and sustained the addition made by the Assessing Officer. Therefore, the matter may be remanded back to the Assessing Officer to determine the correct fair market value after considering relevant details and also pending dispute with the stamp duty authorities.

6. The Ld.DR present for the Revenue, on the other hand, fairly agreed that since the appellant has disputed the stamp duty value before the authorities, the matter may be remanded back to the Ld.CIT(A) to decide the issue afresh after

considering the relevant evidences, including the pending litigation on value of the property.

7. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. The appellant company had purchased a land measuring 7779.50 square yards along with shed having plinth area of 9430 square feet, situated at Andhra Pradesh Industrial Infrastructure Corporation Limited (APIIC) Industrial Park, Vakalapudi Village, Kakinada from Nationwide Shipping Services, vide sale deed, having document No.2252/2021 dated 18/06/2021 for a consideration of Rs.6,50,00,000/-, whereas, the stamp duty value of the said property has been fixed at Rs.10,53,53,550/- by the stamp duty authorities, on which the appellant has paid the stamp duty. The Assessing Officer made addition of Rs.4,03,53,550/- u/s 56(2)(x) of the Act on the ground that, where any person received, in any previous year, from any person or persons on or after the 1st day of April 2017, any immovable property for a consideration, the stamp duty value of such property exceeds such consideration, if the amount of such excess is more than fifty thousand rupees or equal to ten per cent of the consideration, then such difference should be treated as income of the assessee. There is no dispute with regard to the fact that there is difference between consideration as per registered sale deed and stamp duty value of the property, which is in excess of the prescribed limit as per section 56(2)(x) of the Act. In fact, the assessee is admitting the stamp duty value of the property as fixed by the stamp duty authorities. The only dispute with regard to ongoing dispute

between the appellant company and the stamp duty authorities on fair market value of the property. The assessee has disputed the fair market value of the property before the Joint Sub Registrar and lodged a protest for adopting Rs.12,500/- per square yard. The protest lodged by the appellant has been referred to the District Registrar and the District Registrar, Kakinada vide letter No. E1/878/2023 dated 12/06/2023 remanded the issue back to the Joint Sub Registrar for determining the correct fair market value of the property and the said reference is still pending for consideration from the authorities. Once the dispute between the appellant and the stamp duty authorities on fair market value of the property is pending for consideration, in our considered view, the Ld.AO/CIT(A) ought to have kept the proceedings in abeyance or independently ascertain fair market value of the property by referring to DVO as per the law. Since the Ld.CIT(A) has dismissed the objection raised by the assessee, even though he is aware of the pending litigation of stamp duty value of the property and also failed to ascertain the correct fair market value of the property, in our considered view, the matter needs to go back to the file of the lower authorities for ascertaining the correct fair market value of the property. Therefore, we set aside the order passed by the learned CIT(A) and restore the issue to the file of the Assessing Officer for fresh consideration. The Assessing Officer is directed to reconsider the issue after considering the relevant details filed by the assessee and also pending litigation with the stamp duty authorities for determining the correct fair market value of the property. The Assessing Officer may also independently ascertain the correct

fair market value of the property by exercising powers conferred under the Act and decide the issue in accordance with law.

8. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the Open Court on 20th November, 2024.

Sd/-

Sd/-

(K. NARASIMHA CHARY) JUDICIAL MEMBER	(MANJUNATHA G.) ACCOUNTANT MEMBER
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Hyderabad, dated 20th November, 2024

L.Rama, SPS

Copy to:

S.No	Addresses
1	M/s Gemini Edibles and Fats India Limited, Freedom House, 8-2-334/70-71, Road No.5, Banjara Hills, Hyderabad
2	The Deputy Commissioner of Income Tax, Circle-2(1), Hyderabad
3	Pr. CIT, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order