

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC' NEW DELHI**

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

ITA No. 400/Del/2024
Assessment Year: 2016-17

Gobind 31/10, Ashok Nagar, Tilak Nagar, New Delhi-110018.	<u>Vs</u>	NFAC, Delhi.
PAN: ADGPG 4569 B		
APPELLANT		RESPONDENT
Assessee represented by	Shri Sameer Kumar, AR	
Department represented by	Shri Sanjay Kumar , Sr. DR	
Date of hearing	11.11.2024	
Date of pronouncement	29.11.2024	

ORDER

PER SATBEER SINGH GODARA, JM:

This assessee's appeal for assessment year 2016-17 arises against National Faceless Appeal Centre (NFAC), Delhi's DIN and order no. ITBA/NFAC/S/250/2023-24/1056275108(1), dated 19.09.2023, in case no. NFAC/2015-16/10132911, in proceedings u/s 147 read with section of the Income-tax Act, 1961, hereinafter referred to as the 'Act'.

Heard both the parties at length. Case file perused.

2. Coming to the assessee's sole substantive ground challenging both the lower authorities' action making section 56(2)(vii)(b)(ii) addition of Rs. 27,98,544/- representing the difference between actual purchase price of Rs. 36,65,640/- as against stamp price of the capital asset amounting to Rs. 64,64,184/-, it emerges at

the outset from a perusal of the corresponding purchase deed itself dated 27.03.2016 that the relevant capital asset was in fact “lease rights” only than an “immovable property” with title. Faced with this clinching aspect, I hereby quote Section 56(2)(vii) Explanation (d)(i) that the legislature has envisaged “property” as “immovable property, being land or building or both”. It is made clear that similar provision is there in Section 50C of the Act wherein case law CIT v. Green Field Hotel & Associates Pvt. Ltd. (2017) 389 ITR 68 (Bombay) has settled the issue in assessee’s favour and against the department that lease rights are not covered under such a statutory expression. I, accordingly, find no reason to sustain the impugned addition which is deleted in very terms.

3. This assessee’s appeal is allowed in above terms.

Order pronounced in open court on 29.11.2024

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI

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