



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

**(SMC)**

**BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**ITA No.45/RAN/2024**

Assessment Year:2017-18

Gagandeep Kaur Nagi, Flat no. B, Block no. 5A, Mahananda Apartment. Jharkhand.	Vs.	ITO, Ward-1(1). Jharkhand.
PAN/GIR No.AUUPK7438C		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri R.R. Mittal,CA  
Revenue by : Shri Khubchand T.Pandya, Sr.DR

**Date of Hearing : 05/12/2024**

**Date of Pronouncement : 07 /01/2025**

**ORDER**

1. This appeal preferred by the assessee emanates from the order of the NFAC/CIT(A) dt. 08.01.2024 for A.Y. 2017-18 as per the grounds of appeal on record.
2. In this case the assessment was completed on 30.03.2022 u/s 147 r.w.s 144 of the Act. The following additions were made:-

(1) Rs. 12,00,000/- as undisclosed investment u/s 69 of the Act;

(2) Rs. 27,26,800/- as income from other sources u/s 56(2) (vii b) of the Act.

The relevant facts in narration to the above additions are that as per information received by the Department from I & CI, the assessee had purchased an immovable property vide Deed No.4166 dt. 04.10.2016 for a consideration of Rs. 32,00,000/-. During the assessment proceedings the assessee had filed a submission on 28.03.2022 stating that he has purchased the immovable property, a flat, from one Md. Sohail Akhtar which was of the highest consideration in the locality. Along with this submission the assessee had stated that the loan paper and bank account is enclosed. That as evident from the assessment order the AO only found the bank account details of the assessee, however no loan paper was found along with the submission. This submission was filed by the assessee on 28.03.22 and since the case was getting time barred on 31.03.22 the AO proceeded to complete the assessment based on material available on record. It was observed by the AO from the bank account that the assessee had paid only Rs. 20 lakhs to Md. Sohail Akhtar on various dates. In absence of any documentary evidence therefore, the difference of [ Rs. 32,00,000/- - Rs. 20,00,000/-] i.e. Rs. 12,00,000/- was added u/s 69 of the Act as undisclosed investment in the hands of the assessee. Further, the AO had observed that the stamp duty value i.e. Fair Market value of the property was Rs. 59,26,800/-. In absence of any plausible explanation from the assessee, the difference of [Stamp duty value i.e. Rs 59,26,800/- - Rs. 32,00,000/-, the purchase value] i.e. Rs. 27,26,800/- was added u/s 56(2) (viib) of Act as income from other sources.

3. The NFAC/CIT(A) on the other hand observed that the assessee had not filed return of income and as per Section 249 (4)(b) of the Act the assessee is mandatorily required to pay an amount equal to the amount of advance tax which was payable by him in order to get his appeal admitted. Since this compliance was not done by the assessee, the NFAC/CIT (A) dismissed the appeal of the assessee as not admitted.

4. I have heard the rival submissions of the parties herein, have carefully considered the documents on record and have analysed the facts

and circumstances in this case. The assessee has admitted to have paid the sale consideration for purchase of the that flat, to Md. Sohail Akhtar for Rs. 32,00,000/-. Along with this reply the assessee had enclosed bank account details and loan documents. The AO however found only the bank account details as per which only Rs. 20,00,000/- have been paid to Md. Sohail Akhtar. Accordingly, the balance amount of Rs. 12,00,000/- was added u/s 69 of the Act as undisclosed investment. Similarly the difference of stamp duty value and the purchase value i.e. Rs.27,26,800/- was also added u/s 56 (2) (viib) of the Act is income from other sources. It is noted that this reply of the assessee was submitted to the Department on 28.03.22. It is also noted that the AO in the assessment order states that since this was a time barring matter on 31.03.22, the assessment was completed based on materials available on record and order passed on 30.03.22. Therefore, within only two days from receipt of reply from the assessee, the assessment was completed. The Id. DR could not refute these facts on record. Per Contra Id. AR vehemently challenged the validity of the additions made in this case. He submitted that the assessment was completed on a summary basis without conducting adequate enquiry regarding the facts of the case. That even the principles of natural justice had been violated since without adequate opportunity of hearing the additions were made and the NFAC/CIT(A) had not admitted the appeal invoking Section 249(4)(b) of the Act when the truth remains that assessee is not liable to pay any advance tax since the additions itself are arbitrary and bad in law.

5. Analysing the entire ambit of the existing facts I am of the considered view that the substantive rights and liabilities of the parties herein are yet to be adjudicated at the level of the AO. The matter being time barring the assessment order was passed on 30.03.2022 and therefore necessary factual enquiry were left to be completed. The loan papers were not found by the AO, which could have been called again, in this regard necessary hearing should have been provided to the assessee. When the very basis of the additions are doubt full, when the taxable liability of the assessee is not certain, at this stage it cannot be said

therefore, whether sec 249(4)(b) of the Act is applicable in the case of the assessee. Balancing the scales of Justice, I set aside the order of the NFAC/CIT(A) and remand the matter to the file of the AO for denovo adjudication as per law while complying with the principles of natural justice.

6. As per the above terms the grounds of appeal stands allowed for statistical purposes.

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

Order pronounced in the open court on 07/01/2025.

Sd/-

(Partha Sarathi Chaudhury)  
JUDICIAL MEMBER

Dated 07 /01/2025

Ranchi;  
S.S, SPS

**Copy of the Order forwarded to :**

1. The Appellant :  
Gagandeep Kaur Nagi, Flat no. B, Block no.  
5A, Mahananda Apartment. Jharkhand
- 2.The Respondent:,  
ITO, Ward-1(1).  
Jharkhand
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT,Ranchi
5. DR, ITAT,
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Ranchi**

		Date	Initial	
1.	Draft dictated on	10.07.2024		Sr.PS
2.	Draft placed before author	12.7.24		Sr.PS
3.	Draft proposed & placed before the second member			AM
4.	Draft discussed/approved by Second Member.			AM
5.	Approved Draft comes to the Sr.PS/PS			Sr.PS
6.	Kept for pronouncement on			Sr.PS
7.	File sent to the Bench Clerk			Sr.PS
8.	Date on which file goes to the OS			
9.	Date on which file goes to the SPS			
10.	Date of dispatch of Order.			

