

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "F", NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,  
AND  
SHRI VIMAL KUMAR, JUDICIAL MEMBER

	ITA NO. 806/Del/2024		
	A.YR. : 2015-16		
RAJEEV MITTAL, E-78, LIC COLONY, DELHI – 87 (PAN: AGIPM2512R)	VS.	ITO, WARD 41(3), CIVIC CENTRE, NEW DELHI – 2	
(APPELLANT)		(RESPONDENT)	

Appellant by : Shri R.S. Singhvi, CA & Shri Rajat Garg, CA

Respondent by : Ms. Harpreet Kaur Hansra, Sr. D.R.

Date of hearing : 27.01.2025

Date of pronouncement : 03.02.2025

**ORDER**

**PER SHAMIM YAHYA, AM :**

The Assessee has filed the instant Appeal against the Order of the Ld. CIT(Appeal)/NFAC, Delhi dated 18.01.2023, relating to assessment year 2015-16 on the following grounds:-

- 1.1 That on the facts and circumstances of the case, the Ld. CIT(A) was not justified in upholding the addition of Rs. 52,37,543/- u/s. 56(2)(vii)(b) r.w.s. 50C of the Act in total disregard to the correct factual position and submissions filed before the lower authorities.
- 1.2 That the property purchase consideration of Rs. 40 lacs paid by the appellant is in accordance with the market value, the arbitrary

action of the lower authorities in treating the FMV of Rs. 92,37,543/- without appreciating the actual consideration received or conducting any enquiry from the sellers is misconceived not sustainable under law.

1.3 That the property purchased by the appellant was having various vastu problems and this being a case of distress sale of property, the DVO has failed to consider the various factors impacting the valuation of property.

1.4 The valuation of property computed by DVO is flawed and without any proper basis.

2.1 That on the facts and circumstances of the case, the CIT(A) was not justified in confirming the disallowance of Rs. 5,09,989/- being the claim of depreciation on building u/s. 32 of the Act without appreciating the correct factual position that the said building was used for purposes of business.

2.2 That the claim of depreciation being in accordance with the provisions of section 32 and relevant rules, the impugned disallowance is illegal and without any valid justification.

3.1 That on the facts and circumstances of the case, the CIT(A) was not justified in upholding the impugned addition of Rs. 49,08,400/- made u/s. 68 Of the Act on the alleged ground that the appellant has not justified the creditworthiness of the loan lenders.

3.2 That the appellant having filed the ITR ack. And Loan confirmation ledgers of the loans lenders, the action of the AO in disregarding the same and making the addition of loans as unexplained credit is illegal and unwarranted.

3.3 That the appellant have received the loans through proper banking channels and the same being returned back in the subsequent year, the

addition has been made merely on the basis of surmise and conjectures and in total disregard to the documents already on record.

4. That the orders passed by the lower authorities are not sustainable on facts and same are bad in law.

5. That the appellant craves leave to add, alter, amend, forgot any of the grounds of appeal at the time of hearing.

2. Assessee has also filed an application dated 09.12.2024 requesting therein for admission of following Additional Grounds:

1.1 That on the facts and circumstances of the case, the CIT(A) erred in relying on the Valuation Report filed by the Department Valuation Officer (DVO) as the same is illegal and barred by limitation.

1.2 That as per the sub-section 6 to section 142A of the Income Tax Act, 1961, the time limit available with the DVO to file the valuation report expired on 30.06.2018 and such the action of the CIT(A) on placing reliance on such report is invalid.

2.1 Upon hearing both the parties, we admit the aforesaid additional grounds on the touchstone of the Supreme Court decision in the case of NTPC Ltd. 229 ITR 363.

3. In this case, the assessee has purchased commercial property for Rs. 40,00,000/- against the circle rate of Rs. 1,51,39,000/-. AO proceeded to add the difference thereof to the income of the assessee. Further, assessee has claimed depreciation amounting to Rs. 5,05,989/-. AO noted that assessee has not been able to prove the nexus between the building and his business nor any revenue has been generated from the said building. Hence, he disallowed the depreciation on building amount of Rs. 5,05,989/- and added the same in the hands of the assessee. Further, assessee was asked to furnish the source of Rs. 40,00,000/- and Rs. 9,08,400/- for stamp duty. Assessee stated that loan of Rs.

36 lacs was taken from Smt. Manju Mittal and in support thereof he filed the confirmation from her. AO held that in the absence of bank statement and relevant documents of Smt. Manju Mittal, the creditworthiness capacity and genuineness of the loan remained unexplained, hence, he added the same. Against the above order, assessee appealed before the Ld. CIT(A). On assessee's request, Ld. CIT(A) sent valuation of property to the DVO and after DVO's computation, it came to Rs. 92,37,543/-. Accordingly, Ld. CIT(A) directed the AO to re-compute the income. However, other additions of depreciation and loan were confirmed by the CIT(A). Against this order, assessee is in appeal before us.

4. We have heard both the parties and perused the records. While arguing the Additional Grounds, Ld. Counsel for the assessee pleaded that valuation report by the DVO is time barred as per sub-section 6 of Section 142A of the Income Tax Act, 1961. He further submitted that as per this section, the DVO has to submit the Valuation Report within 06 months of the Reference. However, in this case, Reference was dated 27.12.2017 and the valuation should have been done as per the mandate of the Section 142A of the Act by 30.06.2018, but the same was done on 05.09.2018. Hence, he pleaded that this addition is made on the basis of the time barred Valuation Report, which is not valid and needs to be deleted.

5. Per contra, Ld. DR supported the orders of the authorities below and also supported the valuation report. She submitted that not much difference would happen, if there is some delay in submission of the Valuation Report.

6. Upon careful consideration, we are of the considered opinion, that addition has been done by the revenue authorities on the basis of the Valuation Report which is clearly time barred. As the provisions of section 142A provides 6 months period for the DVO to submit his report from the date of Reference. However, admittedly, in this case the valuation report has been submitted much after that. Hence, we agree with the contention of the Ld. Counsel for the

assessee that valuation report is time barred and on that basis, the addition in this regard was based upon the invalid Valuation Report is not sustainable. We direct accordingly.

7. As regards the issue of depreciation and addition on account of loan amount, Ld. Counsel for the assessee pleaded that there are some papers on the basis of which the same should be allowed. Hence, we are of the considered view that some papers were not before the authorities below, therefore, the issues in dispute are remitted back to the file of the AO. AO shall consider the said issues after giving adequate opportunity of being heard. AO shall consider the documents being submitted by the Ld. Counsel for the assessee. Ld. Counsel for the assessee also agreed that these issues may be remitted back to the file of the AO for fresh consideration for which Ld. DR has no objection. Accordingly, these issues are remitted back to the file of the AO to consider the same afresh, after giving adequate opportunity of being heard to the assessee.

8. In the result, the Appeal filed by the Assessee is partly allowed for statistical purposes.

Order pronounced on 03/02/2025.

**Sd/-**

**(VIMAL KUMAR)  
JUDICIAL MEMBER**

**Sd/-**

**(SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

SRBHATNAGAR

**Copy forwarded to:-**

1. Appellant
2. Respondent
3. CIT
4. CIT(A)5. DR, ITAT

Assistant Registrar