

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH, "SMC" AGRA**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**
(Through Video Conferencing)

ITA No.402/Agr/2024
Assessment Year: 2016-17

Bhagirath Pakharia, 124, Nanak Ganj Sipri Bazar, Jhansi, Uttar Pradesh	Vs.	ITO, Ward-2(3)(1), Jhansi
PAN :AMDPP6709L		
(Appellant)		(Respondent)

Assessee by	Sh. Prarthana Jalan, CA
Department by	Sh. Shailender Shrivastava, Sr. DR

Date of hearing	07.02.2025
Date of pronouncement	07.02.2025

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2016-17, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and order no. ITBA/APL/S/250/2024-25/1067528976(1), dated 12.08.2024 involving proceedings under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Heard both the parties at length. Case file perused.

3. It emerges during the course of hearing that both the learned lower authorities have made the addition of Rs.26.45 lakhs under section 56(2)(vii) of the Act alleging difference between actual purchase price and stamp value of the land(s) in question. We invited the Revenue's attention to section 56(2)(vii) Explanation wherein the legislature has defined "property" as the "following capital asset of the assessee". Meaning thereby that the impugned addition comes into play only when the assessee concerned receives any immovable property in the nature of a capital asset under section 2(14) of the Act.

4. It is in this factual backdrop that we note that there is no indication in both the learned lower authorities respective orders that the assessee had purchased any capital asset at a price less than the stamp value thereof so as to be exigible to section 56(2)(vii) addition. We thus conclude that given the fact that there is no capital asset involved in the assessee's land purchased, the impugned addition is not sustainable in law and on facts. The same is directed to be deleted in very terms.

5. This assessee's appeal is allowed.

Order pronounced in the open court on 7th February, 2025

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 7th February, 2025.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra