

**IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, AGRA**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER &
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

**ITA No. 235/Agr/2024
(Assessment Year 2014-15)**

Kamal Kishore Pandey Shivaji Nagar, Amkho Lashkar, Gwalior Madhya Pradesh-474001	Vs.	CIT(A)/NFAC, Delhi
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ASJPP5665K		
Appellant	..	Respondent

Appellant by :	None
Respondent by :	Sh. Shalendra Shrivastava, Sr. DR

Date of Hearing	10.02.2025
Date of Pronouncement	10.02.2025

ORDER

PER SATBEER SINGH GODARA, JUDICIAL MEMBER:

This assessee's appeal for assessment year 2014-15 arises against Commissioner of Income Tax(Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN & Order No. ITBA/NFAC/S/250/2024-25/1065080299(1) dated 22.05.2024, involving proceedings u/s 143(3) of the Income-tax Act, 1961, [hereinafter referred to as the 'Act'].

2. Case called twice. None appears at the assessee's behest. We accordingly proceeded *ex-parte*.

3. It emerges during the course of hearing that the able assistance coming from the Revenue side that both the lower authorities has made Section 56(2)(vii)(b) addition of Rs.72 lacs representing the assessee's actual purchase price of Rs.3 lacs viz-a-viz that assessed to the tune of Rs.75 lacs by the stamp authority(ies). The Revenue's case accordingly before us is that we ought to uphold the impugned addition since representing the said difference attracting section 56(2)(vii)(b) of the Act.

4. We are of the considered view that in this factual backdrop that the learned lower authorities have recorded any categorical evidence that assessee's immovable property purchased herein amounts to a "capital asset" going by Explanation to Section 56(2)(vii)(b). Nor they have made any reference to the DVO under 2nd and 3rd proviso thereto. The Revenue at this stage vehemently argues that no such objection for making reference DVO had been raised by the assessee before the lower authorities. We find no merit in the Revenue's technical objection in light Sunil Kumar Agarwal vs. CIT (2015) 372 ITR 83 (Kolkata) that such a reference under section 50C(2) applicable *mutatis mutandis* to section 56(2)(vii)(b), as mandatory even in absence of any such objection raised by the taxpayer. We thus deem it appropriate to restore the case back to the learned Assessing Officer for his afresh adjudication as per law in very terms. Ordered accordingly.

5. This assessee's appeal is allowed for statistical purposes.

Order pronounced in the open court on 10.02.2025

Sd/-
(Manoj Kumar Aggarwal)
ACCOUNTANT MEMBER

Sd/-
(Satbeer Singh Godara)
JUDICIAL MEMBER

Dated 10.02.2025

PS: Rohit/Subodh, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR