

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR
(By Virtual Mode)
BEFORE SH. KUL BHARAT, VICE PRESIDENT
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No.187/JAB/2024
A.Y. 2017-18

Rajendra Singh Bagga, 15 43, Tandon Bagicha, College Road, Gayatri Nagar, Damoh, M.P.	vs.	National Faceless Assessment Centre, Delhi [Jurisdiction Officer-ACIT Katni-Circle, Katni
PAN:ADGPB8418G		
(Appellant)		(Respondent)

Assessee by:	Sh. Dhiraj Ghai, FCA
Revenue by:	Sh. Alok Bhura, Sr. DR
Date of hearing:	20.05.2025
Date of pronouncement:	30.06.2025

ORDER

PER NIKHIL CHOUDHARY, A.M.

This is an appeal filed by the assessee against the order of the learned CIT(A), NFAC under section 250 of the Income Tax Act dated 14.10.2024 whereby learned CIT(A) has dismissed the appeal of the assessee filed against the orders of the learned AO under section 147 read with section 144 dated 30.03.2022. The grounds of appeal are under:-

"1. On the facts and circumstances of the case, the Ld. CIT(A) erred in passing ex-party order without providing adequate opportunity as only three dates for hearing were fixed and that too in the peak periods of filling of tax audits, income tax returns and accordingly assessee was busy in filling his audit report /ITR and had sought adjournment also in this regard.

2. On the facts and circumstances of the case, CIT (A) erred in confirming addition of 6 lacs under section 68, when AO himself admitting in the assessment order that the difference of 5% 'was applicable as allowable difference between circle rate and actual rate of purchase of property. Hence forth the addition of Rs 6 lacs should have been deleted by AO.

- 3. On the facts and circumstances of the case CIT(A) erred in not considering the case that AO erred in not referring the case to Government valuer (DVO) for ascertaining the correct market value of the property as the same being is situated in village and being far away from road, hence the assessment order was against natural justice and henceforth the addition of Rs 6 lacs should have been deleted by AO.*
- 4. On the facts and circumstances of the case CIT (A) erred in confirming addition of Rs 6 lacs under section 69 of the act as AO made two contradictory statements in assessment order ie one being that sum of Rs. 26 lacs paid to each seller (total 78 lacs although denied by assessee) is recorded in books of accounts and TDS is deducted thereupon and second being that being difference between circle rate and actual purchase rate is of 6 lacs. Accordingly as per AO as the payment of 78 lacs was duly recorded in books of accounts with TDS thereupon; no addition under section 69 could has been made as primary requirement of section 69 state that investment should be out of books. Accordingly, addition of Rs 6 lacs should have been deleted by AO.*
- 5. The appellants craves leave to add or amend any ground of the appeal."*

2. The facts of the case are that the assessee filed a return of income for the assessment year 2017-18 on 30.10.2017 declaring a total income of Rs.1,93,57,990/-. The ld. AO observed that the assessee had purchased an immovable property below stamp duty value and therefore in his opinion, attracted the provisions of section 56(2)(vii)(b) to the extent of Rs. 5,99,420/-. He issued a notice under section 148 and subsequent notices including a show cause notice to the assessee, in response of which the assessee furnished his replies. However, the ld. AO was not convinced with the replies and he made an addition of Rs. 6,00,000/- to the income of the assessee upon finding that the total payment made towards purchase of the property were Rs. 78,00,000/- while only Rs. 72,00,000/- was recorded in the balance sheet.

3. Aggrieved with the orders of the ld. AO, the assessee went before the ld. CIT(A). The ld. CIT(A) records that he issued three notices to the assessee. In response to the first two notices, no responses were received while in response to the third notice an adjournment application was submitted. However, learned CIT(A) did not deem it necessary to grant the adjournment and proceeded to decide the matter on the basis of the information available in the records and the submissions made in the grounds of appeal. He rejected the plea of the assessee that the addition had been

wrongly made and represented the difference between the stamp duty value of the property and the actual purchase price paid, which ought to be ignored since it fell within the 10% margin, on the grounds that in the concerned year, the value that could be ignored was only 5%. He also observed that there was a difference in the value recorded in the balance sheet and the amount paid as per sale deed, to the extent of rupees 6,00,000/- and therefore, he confirmed the addition in the hands of the assessee.

4. The assessee is aggrieved at this dismissal of his appeal without giving an adequate opportunity to represent the matter. Shri Dhiraj Ghai, FCA appearing on behalf of the assessee filed before us a copy of the screenshot of the application for adjournment that had been filed. In the same, it was pointed out that the notice had been served on 1.10.2024 and the due date for submission was 4.10.2024. Since the period given was very short, the assessee was not in a position to submit the reply and therefore, a one-month adjournment was sought. Learned AR further submitted that a response by way of acknowledgement had been received and therefore, there was no reason for the learned CIT(A) to finalize the matter without giving the assessee proper opportunity to represent his case. It was, therefore, prayed that since the addition had been confirmed without hearing the assessee, the order of the learned CIT(A) could not be sustained.

5. On the other hand, Shri Alok Bhura, learned Sr. DR submitted that the assessee had been given three opportunities and had not availed any of them and therefore, the orders of the learned CIT(A) was fit to be confirmed.

6. We have duly considered the facts and circumstances of the case. It appears that only three days were provided to the assessee to make compliance with the notice dated 1.10.2024 which in our opinion, is extremely inadequate. Even if the learned CIT(A) was not inclined to grant a one-month adjournment, he should have allowed a

reasonable period of time to the assessee to submit his arguments in support of his appeal. It appears that in refusing to grant the adjournment, the learned CIT(A) has proceeded with haste and violated the principles of natural justice. Accordingly in the interest of justice, we deem it appropriate to restore the matter back to the file of the learned CIT(A) so that the assessee may make his submissions and a decision may be taken in accordance with law, after considering those submissions.

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

Order pronounced on 30.06.2025 in the open Court.

Sd/-
[KUL BHARAT]
VICE PRESIDENT

DATED:30/06/2025

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Copy forwarded to:

1. Appellant –
2. Respondent –
3. CITDR , ITAT,
4. CIT,
5. The CIT(A)

Sd/-
[NIKHIL CHOUDHARY]
ACCOUNTANT MEMBER

By order
Sr. P.S.