

आयकर अपीलीय अधिकरण, “एस.एम.सी” न्यायपीठ, कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH KOLKATA

श्री जार्ज माथन, न्यायिक सदस्य के समक्ष ।

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं/ITA No.794/KOL/2025

(निर्धारण वर्ष / Assessment Year :2020-2021)

Nineesha Das, 0, Mother Land Nursing Home, Dankuni Library Para, Hooghly	Vs	ITO, Ward-23(1), Hooghly
PAN No. : BVHPD 8303 G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri S.P.Dutta, Advocate
राजस्व की ओर से /Revenue by	:	Smt. Pampa Ray, JCIT-Sr.DR
सुनवाई की तारीख / Date of Hearing	:	15/07/2025
घोषणा की तारीख/ Date of Pronouncement	:	15/07/2025

आदेश / O R D E R

This is an appeal filed by the assessee against the order of the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 18.06.2024 for the Assessment Year 2020-2021.

2. Shri S.P.Dutta, Id.AR appeared on behalf of the assessee and Smt. Pampa Ray, Id. Sr.DR appeared on behalf of the revenue.

3. The appeal of the assessee is barred by 228 days. In this regard, the assessee has filed an application for condonation of delay stating sufficient reasons which are plausible and not found to be false. Ld.Sr.DR also did not raise any serious objection. Accordingly, the delay of 228 days in filing the appeal is condoned and the appeal is admitted for hearing.

4. It was the submission by the Id. AR that the assessee has purchased a commercial property for a consideration of Rs.59,94,000/-. It was the submission that as per the Sub-Registrar Valuation the stamp value of the property was Rs.1,39,86,000/-. It was the submission that the AO adopted

the difference as unexplained difference of the assessee and treated 25% of the total value as liable to be taxed under the head 'income from other sources.' It was the submission that the AO has not got valuation of the property by the DVO. It was the submission that the assessee has paid Rs.79,92,000/-, therefore, no further addition is called for in the hands of the assessee.

5. In reply, Id. Sr. DR vehemently relied on the order of the Id.AO and Id. CIT(A).

6. I have considered the rival submissions. A perusal of the assessment order shows that the show cause notice issued to the assessee as to why 25% of the differential amount of Rs.59,94,000/- being the different between the Sub-Registration Value and the actual consideration paid by the assessee, should not be treated as income of the assessee under the income from other sources u/s.56(2)(x) of the Act. A perusal of the order of the Id. CIT(A) shows that the order is an ex-parte order. *Prima facie*, it is noticed from the present facts of the case that the AO has not shown as to why he had adopted 25% as the income that is liable to be assessed under the head income from other sources. Here 25% is on account of the assessee's 1/4th share in the property. The Hon'ble Jurisdictional High Court in the case of Sunil Kumar Agarwal, passed in GA NO.3686 of 2013 ITAT No.221 of 2013, dated 13.03.2024 has held that it is incumbent upon the AO to intimate the assessee as to whether he proposes have the property valued by the DVO as per the provisions of Section 56(2)(x) of the Act. It is also noticed that the assessee has not appeared before the AO,

thus, it cannot be said that the AO had not given any opportunity to question the assessee in regard to the proposal to invoke the provisions of Section 56(2)(x) of the Act. In view of these circumstances and looking to the conduct of the assessee for non-appearance before either of the authorities below, the issues in this appeal are restored to the file of the Id. AO for readjudication after granting the assessee adequate opportunity of being heard, subject to a payment of cost of **Rs.25,000/-(Rupees Twentyfive Thousand only)** by the assessee to the Legal Aid Services, 3rd Floor of the Centenary Building, High Court, Calcutta-700001, within sixty days from the date of this order and receipt of the same would be produced before the Id. AO at the first hearing. Should the assessee not pay the abovementioned costs within the prescribed period of sixty days from the date of this order, the order of the Id.CIT(A) shall stand confirmed. The assessee is also directed to cooperate with the AO in the readjudication proceedings, positively

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

Order dictated and pronounced in the open court on 15/07/2025.

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

कोलकाता Kolkata; दिनांक Dated 15/07/2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कोलकाता** / DR,
ITAT, Kolkata
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)
Income Tax Appellate Tribunal, Kolkata