

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY,  
JUDICIAL MEMBER**

**ITA No. 329/NAG/2025  
Assessment Year: 2016-17**

<b>Mr. Ajay Kamalkishor Rathi,</b> C/o Saroj Talkies Building, Saroj Chowk, Amravati, Amravati-444601. <b>PAN: AARPR3168H</b>	Vs.	<b>ITO Ward-4,</b> Aayakar Bhavan, Near DPS School, Saturna, Amravati amravati-444607.
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Swetanshu Dev, Ld. Adv.  
Revenue by : Shri Surjit Kumar Saha, Ld. Sr. D.R.

Date of Hearing : 26.06.2025  
Date of Pronouncement : 26.06.2025

**O R D E R**

**Per : Narender Kumar Choudhry, Judicial Member:**

This appeal has been preferred by the Assessee against the order dated 21.02.2025, impugned herein, passed by the ADDL/JCIT Commissioner) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2016-17.

**2.** In this case, the Assessing Officer (AO) vide assessment order dated 14.12.2018 u/s 143(3) of the Act, has made the addition of Rs.18,66,670/- being 1/3<sup>rd</sup> of the difference between the stamp duty valuation on market value of Rs.2,56,00,000/- and sale consideration shown by the Assessee, u/s 56(2)(vii)(b) of the Act with a rider that addition will be subject to modification, if any, on

receipt of valuation report, from the Assistant Valuation Officer, Nagpur.

**3.** The Assessee challenged the said disallowance/addition by filing first appeal before the Ld. Commissioner on dated 08001.2019, however, subsequently the AO received the valuation report from the Valuation Officer, Income Tax Department, Nagpur, who valued the property at Rs.2,06,25,000/- and therefore the difference of FMV as per the valuation officer report and as per sale consideration shown by the Assessee comes to Rs.6,25,000/- and the Assessee's share comes to **Rs.2,08,333/-** being 1/3<sup>rd</sup> of the said amount and thus, the AO vide order dated 03.03.2020 u/s. 155(15) of the Act, sustained the addition to the extent of **Rs.2,08,333/-**.

**4.** The Ld. Commissioner by taking cognizance of such facts and the order dated 03.03.2020 referred to above, ultimately held the appeal of the Assessee being infructuous/merging of assessment order dated 14.12.2018 u/s 143(3) of the Act with the order dated 03.03.2020 u/s 155(15) of the Act and consequently dismissed the same.

**5.** This Court has given thoughtful considerations to the peculiar facts and circumstances of the case. Admittedly, the difference between the FMV as per the valuation report and the consideration shown by the Assessee was of Rs.6,25,000/- which is lower than 5% of the leverage granted by the statute under the relevant provisions of law, as also applicable to the instant case. Thus, considering the same, the addition sustained by the AO to the extent of Rs.2,08,000/- vide order dated 03.03.2020 u/s 155(15) of the Act, is deleted by allowing the appeal of the Assessee.

**6.** In the result, the appeal filed by the Assessee is allowed.

**Order is pronounced in open Court on 26.06.2025 .**

**Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER**

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Nagpur  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Nagpur.