

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
'SMC' BENCH, KOLKATA**

**Before Shri Duvvuru RL Reddy, Vice-President (KZ)**

**I.T.A. No. 1057/KOL/2025  
Assessment Year: 2015-2016**

***Aruneswar Mukhopadhyay,.....Appellant  
64, Rajni Mukherjee Road, Sahapur,  
Kolkata-700038, West Bengal  
[PAN:ADSPM1879J]***

**-Vs.-**

***Assistant Commissioner of Income Tax,.....Respondent  
Circle-1(1), Kolkata,  
Aayakar Bhawan,  
P-7, Chowringhee Square,  
Kolkata-700069***

**Appearances by:**

*Shri Rajesh Kumar Mishra, Advocate, appeared on behalf  
of the assessee*

*Shri Mrinmay Basak, Sr. D.R., appeared on behalf of the  
Revenue*

**Date of concluding the hearing: August 25, 2025**

**Date of pronouncing the order: October 14, 2025**

**O R D E R**

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), Kolkata-22 dated 20.01.2025 passed for Assessment Year 2015-2016.

2. The appeal is time barred by 49 days in filing the appeal by the assessee. However, the assessee filed a condonation petition before the ITAT in support of condonation of delay of 49 days mentioning that the delay occurred due to sudden fallen under severe medical complications and went into complete bed-rest as per doctor's advice and stated that he was not aware of any notices of hearing and the order passed by the Id. CIT(Appeals) and when he came to know about the order passed by the Id. CIT(Appeals), he approached the Id. A.R. to prefer an appeal, due to that there was a delay of 49 days in filing the appeal before the Tribunal. Therefore, he pleaded to condone the delay.

3. Considering the facts and circumstances of the case, I am of the view that the assessee was prevented in filing the appeal within the stipulated time. Therefore, I am inclined to condone the delay of 49 days. Hence the delay is condoned.

4. Facts in brief are that the assessee is a non-resident for the year under consideration. The assessee acquired an immovable property during the year under consideration. The fair market value of the immovable property purchased by the assessee is higher by Rs.5,15,326/- from the consideration given by the assessee. Hence, a show-cause notice was issued to the assessee on 20.03.2023 to explain why the excess amount of Rs.5,15,326/- should not be taxed as gift in his hand under the head "income from other sources" as per section 56(2) of the Act. Getting no reply from the side of the assessee, the assessment order in the case of appellant was passed on 23.05.2023 assessing an income of

Rs.5,98,336/- against the returned income of Rs.83,010/-. Thereafter, on assessee's petition before the ld. Assessing Officer, as order under section 154 dated 08.02.2024 was passed to allow the assessee credit of tax. Penalty proceeding under section 271(1)(c) and 271F was initiated for concealment of income and non-filing of ITR of the Income Tax Act, 1961.

5. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals). The ld. CIT(Appeals) dismissed the appeal of the assessee without going into the merit of the case.

6. On being aggrieved, the assessee preferred an appeal before the Tribunal. It was the submission of the ld. Counsel for the assessee that the assessee purchased the immovable property in the year 2012 and he entered into an agreement for sale with the vendor and the said property was registered in the name of the assessee on 28<sup>th</sup> August, 2014. He further submitted that for the gap of two years' time, the registration value of the property was changed. The assessee purchased the property at Rs,31,00,000/- but at the time of registration of sale deed, property value was shown at Rs.36,41,000/-. Therefore, the ld. Assessing Officer added the difference amount of Rs.5,15,326/- to the total income of the assessee. The ld. Counsel further submitted that the assessee has paid only the sale consideration, which was mentioned in the agreement for sale and the assessee also filed the comparative sale deed, which was registered in the year 2012. Therefore, he pleaded to set aside the orders passed by the revenue authorities.

7. On the other hand, it was the submission of the ld. Departmental Representative that though the assessee entered into an agreement with the vendor in the year 2012 but registration of the sale deed was executed on 28<sup>th</sup> August, 2014, therefore, the registration value of the property was shown at Rs.36,41,000/-. He, therefore, pleaded that the ld. Assessing Officer has rightly added the difference amount of Rs.5,98,336/- as concealment of income.

8. I have heard both the sides and perused the material available on record. It is an undisputed fact that the assessee entered into an agreement of sale with the vendor in the year 2012 and the sale consideration was shown at Rs.31,25,674/-. It is also an admitted fact that in the year 2012, some of the sale deeds were executed by the vendor to the other purchasers, which clearly shows the sale consideration as Rs.31,25,674/-. It is also an admitted fact that the assessee entered into agreement for purchasing the property in the year 2012 and the registration of the sale deed was executed on 28<sup>th</sup> August, 2014, therefore, due to gap of two years, sale consideration value was shown at Rs.36,41,000/- and due to fluctuation of registration charges, the difference amount comes. In this case, except execution of registered sale deed, all formalities were completed in the year 2012 itself. The assessee purchased the property at Rs,31,00,000/- but at the time of registration of sale deed, property value was shown at Rs.36,41,000/-. Therefore, considering the facts and circumstances of the case, I am of the

view that the assessee has purchased the property for an amount of Rs.31,00,000/-, but sale consideration value shown at Rs.36,41,000/-. Therefore, the addition made by the ld. Assessing Officer on account of difference of Rs.5,15,326/- between the consideration given by the assessee and the valuation of property on the date of registration. The entire sale transaction has been completed except registration. Hence the addition made for an amount of Rs.5,15,326/- is not correct. I direct the ld. Assessing Officer to delete the addition of Rs.5,15,326/-.

**9. In the result, the appeal of the assessee is allowed.**

Order pronounced in the open Court on 14/10/2025.

Sd/-

**(Duvvuru RL Reddy)**  
**Vice-President (KZ)**

***Kolkata, the 14<sup>th</sup> day of October, 2025***

*Copies to :(1) Aruneswar Mukhopadhyay,  
64, Rajni Mukherjee Road, Sahapur,  
Kolkata-700038, West Bengal*

*(2) Assistant Commissioner of Income Tax,  
Circle-1(1), Kolkata,  
Aayakar Bhawan,  
P-7, Chowringhee Square, Kolkata-700069*

*(3) CIT(A, Kolkata-22;*

*(4) CIT - , Kolkata;*

*(5) The Departmental Representative;*

*(6) Guard File*

*TRUE COPY*

*By order*

*Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

***Laha/Sr. P.S.***