

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH "SMC" SURAT**

**BEFORE SHRI SANDEEP GOSAIN (JUDICIAL MEMBER)
AND
SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**

**ITA No. 686/SRT/2025
Assessment Year: 2018-2019**

Shilpaben Hiteshbhai Sakaria,
17, Hetal Nagar Society, Near
Navyug Collage, Rander Road,
Surat-395005.

Vs.

ITO-1(2)(6),
Income Tax Office, Anavil
Business Business Centre,
Adajan Hazira Road, Adajan,
Surat-395007.

PAN NO. AQQPS 4288 Q
Appellant

Respondent

Assessee by : Mr. Himanshu Gandhi, CA
Revenue by : Mr. J.K. Chandnani, Sr. DR

Date of Hearing : 09/10/2025
Date of pronouncement : 30/10/2025

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 18.06.2025 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)'] for assessment year 2018-19, raising following grounds:

Ground 1. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming addition of Rs.1410000 under section 56(2)(vii)(b)(ii) on Income Tax Act, 1961



Ground 2. On the facts and circumstances of the case and law, the Ld. CIT(A) failed to consider that there is time gap between considering fixing date and registration date, then stamp value as on agreement fixing date will be considered for the purpose of section 56(2)(vii)(b)(ii) which is below the purchase consideration. Further the provision is applicable in AY 2018-19 also

Ground 3. Without Prejudice to Ground No. 2, On the facts and circumstances of the case and law, the Ld. CIT(A) failed to consider that the difference between the purchase consideration and stamp duty value is within tolerance limit. Hence, no addition under section 56(2)(vii)(b)(ii) will apply

Ground 4. On the facts and circumstances of the case and law the Ld. CIT(A) erred in confirming interest u/s 234A, 234B and 234C of income tax act, 1961.

Ground 5. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming invocation of penalty provision u/s 270A on addition made under deeming provisions of income tax.

Ground 6. Appellant craves leave to add further grounds OR to amend OR alter the existing grounds of appeal on OR before the date of hearing

2. Briefly stated, facts of the case are that the assessee is an individual who filed her return of income electronically on 30.08.2018 declaring a total income of ₹4,10,400/-. The return so filed was selected for scrutiny under the prescribed parameters, and statutory notices under the Act were duly issued and complied with.

2.1 During the course of the assessment proceedings, the Assessing Officer observed that the assessee had purchased a property situated at Khar Road, Mumbai, jointly with her husband, vide a registered sale agreement dated 10.11.2017 for a sale consideration of ₹5,24,39,000/-. The corresponding stamp duty



valuation of the said property was determined at ₹5,52,59,000/-, thus revealing a differential of ₹28,20,000/-. The Assessing Officer, being of the view that such difference represented an undervaluation attracting the provisions of section 56(2)(vii)(b) [now section 56(2)(x)] of the Act, proposed to treat the same as income from other sources in the hands of the assessee.

2.2 In response, the assessee explained that the property in question had been allotted to her on 31.03.2017, upon payment of ₹5,00,000/- by way of cheque, and that the agreed consideration fixed at that date was in excess of the prevailing stamp duty valuation as on 31.03.2017. The assessee thus contended that by virtue of the proviso to section 56(2)(vii)(b) [or its successor section 56(2)(x)], the transaction was immune from addition. However, the Assessing Officer, finding the evidentiary support to be incomplete—particularly noting that only a partial bank statement had been furnished without the cover page of the passbook—proceeded to make an addition of ₹28,20,000/- as income from other sources.

2.3 In appeal, the Ld. CIT(A) accepted the factual position that the stamp duty valuation as on the date of the initial allotment (31.03.2017) was indeed lower than the agreed sale consideration recorded in the registered agreement. Nevertheless, the Ld. CIT(A) opined that the benefit of the said proviso could be availed only



from 01.04.2019 onwards, treating it as prospective in operation. He therefore sustained the addition, albeit restricting it to 50% of the total differential amount, corresponding to the assessee's one-half share in the property, thus confirming an addition of ₹14,10,000/-.

2.4 Being aggrieved, the assessee is in appeal before the Tribunal by way of raising the grounds reproduced above.

3. We have heard the rival submissions made by the Ld. Authorised Representative for the assessee and the Ld. Departmental Representative for the Revenue, and have carefully perused the relevant material on record as well as the statutory provisions. The limited controversy before us is whether the benefit of the first and second provisos to section 56(2)(x)(b) of the Act—permitting adoption of the stamp duty value as on the date of the agreement where consideration has been paid by specified banking modes—was available during the year under consideration or came into effect only from assessment year 2019–20, as held by the Ld. CIT(A). For clarity, it may be observed that up to assessment year 2016–17, the provision governing taxation of immovable property received for inadequate consideration was contained in section 56(2)(vii)(b) of the Act, applicable to individuals and Hindu Undivided Families (HUFs). From assessment year 2017–18 onwards, the said clause stood superseded by section 56(2)(x),



which extended similar provisions to all persons, including firms and companies. Since in this case dispute is falling during the period when section 56(2)(x) came into operation, the relevant proviso to section 56(2)(x) of the Act is reproduced as under:

⁴⁸[(x) where any person receives, in any previous year, from any person or persons on or after the 1st day of April, 2017,-

(a) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

(b) any immovable property,-

(A) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

⁴⁹[(B) for a consideration, the stamp duty value of such property as exceeds such consideration, if the amount of such excess is more than the higher of the following amounts, namely:-

(i) the amount of fifty thousand rupees; and

(ii) the amount equal to ⁵⁰[ten] per cent of the consideration.]

Provided that where the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of agreement may be taken for the purposes of this sub-clause :

Provided further that the provisions of the first proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account ⁵¹[or through such other electronic mode as may be prescribed ⁵²], on or before the date of agreement for transfer of such immovable property:

Provided also that where the stamp duty value of immovable property is disputed by the assessee on grounds mentioned in sub-section (2) of [section 50C](#), the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of [section 50C](#) and sub-section (15) of [section 155](#) shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of this sub-clause as they apply for valuation of capital asset under those sections:

⁵³**Provided also** that in case of property being referred to in the second proviso to sub-section (1) of [section 43CA](#), the provisions of sub-item (ii) of item (B) shall have effect as if for the words “ten per cent”, the words “twenty per cent” had been substituted;]

(c) any property, other than immovable property,-

(A) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;



(B) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration :

Provided that this clause shall not apply to any sum of money or any property received-

- (I) from any relative; or
- (II) on the occasion of the marriage of the individual; or
- (III) under a will or by way of inheritance; or
- (IV) in contemplation of death of the payer or donor, as the case may be; or
- (V) from any local authority as defined in the Explanation to clause (20) of [section 10](#); or
- (VI) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of [section 10](#); or
- (VII) from or by any trust or institution registered under [54](#)[[section 12A](#) or [section 12AA](#) or [section 12AB](#)]; or
- (VIII) by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of [section 10](#); or
- (IX) by way of transaction not regarded as transfer under clause (i) or [55](#)[clause (iv) or clause (v) or] clause (vi) or clause (via) or clause (viaa) or clause (vib) or clause (vic) or clause (vica) or clause (vicb) or clause (vid) or clause (vii) [56](#)[or clause (viiac) or clause (viiad) or clause (viiæ) or clause (viiaf)] of [section 47](#); or
- (X) from an individual by a trust created or established solely for the benefit of relative of the individual;*
- [57](#)[(XI) from such class of persons and subject to such conditions, as may be prescribed [58](#).];*
- [59](#)[(XII) by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, for any illness related to COVID-19 subject to such conditions [60](#), as the Central Government may, by notification in the Official Gazette, specify in this behalf;*
- (XIII) by a member of the family of a deceased person,-
 - (A) from the employer of the deceased person; or
 - (B) from any other person or persons to the extent that such sum or aggregate of such sums does not exceed ten lakh rupees,
where the cause of death of such person is illness related to COVID-19 and the payment is-
 - (i) received within twelve months from the date of death of such person; and
 - (ii) subject to such other conditions [60](#), as the Central Government may, by notification in the Official Gazette, specify in this behalf.



Explanation.-For the purposes of clauses (XII) and (XIII) of this proviso, “family”, in relation to an individual, shall have the same meaning as assigned to it in Explanation 1 to clause (5) of [section 10](#).]

*[61](#)[**Provided further** that clauses (VI) and (VII) of the first proviso shall not apply where any sum of money or any property has been received by any person referred to in sub-section (3) of [section 13](#).]*

[62](#)[Explanation.-For the purposes of this clause,-

- (a) the expressions “assessable”, “fair market value”, “jewellery”, “relative” and “stamp duty value” shall have the same meanings as respectively assigned to them in the Explanation to clause (vii); and*
- (b) the expression “property” shall have the same meaning as assigned to it in clause (d) of the Explanation to clause (vii) and shall include virtual digital asset;]]*

3.1 The relevant portion of section 56(2)(x), as inserted by the Finance Act, 2017 with effect from 1st April, 2017, and applicable for assessment year 2017–18 onwards, expressly provides that where the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be adopted for the purposes of computing the deemed income. This benefit, however, is subject to the further condition—contained in the second proviso—that the consideration, or a part thereof, must have been paid by account payee cheque, bank draft, or electronic transfer on or before the date of such agreement.

3.2 Upon a careful reading of the statutory text and legislative chronology, it is manifest that both the aforesaid provisos were introduced by the Finance Act, 2017 with effect from 1st April, 2017 and are therefore applicable to all assessment years commencing thereafter, including the assessment year under consideration. The



reasoning adopted by the Ld. CIT(A), to the effect that the proviso is operative only from assessment year 2019–20, is therefore contrary to the plain language of the enactment.

3.3 In the instant case, it stands admitted that the agreement for allotment of the property was entered into on 31.03.2017, accompanied by payment of ₹5,00,000/- through banking channels on that very date. The assessee also placed before the lower authorities the contemporaneous stamp duty valuation as on 31.03.2017 amounting to ₹4,90,43,950/-, which was admittedly less than the agreed consideration of ₹5,24,39,000/-. Hence, when tested against the proviso, the transaction falls entirely outside the mischief of section 56(2)(x).

3.4 Once the statutory condition of prior payment through banking modes and a higher sale consideration as on the agreement date stands fulfilled, there remains no occasion to invoke any addition based upon the subsequently enhanced stamp duty valuation at the time of registration.

3.5 In light of the foregoing discussion, and considering the manifest intent of the legislature in aligning section 56(2)(x) with section 50C and section 43CA for uniformity of treatment, we hold that the assessee was fully entitled to adopt the stamp duty valuation as on the date of the agreement for sale. Accordingly, the addition sustained by the Ld. CIT(A) cannot be upheld.



3.6 We therefore set aside the order of the Ld. CIT(A) on this issue and direct deletion of the addition made by the Assessing Officer.

3.7 The grounds of appeal of the assessee are accordingly allowed.

4. In the result, the appeal of the assessee is allowed.

**Order pronounced under Rule 34(4) of the ITAT Rules on
30/10/2025.**

**Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Dated: 30/10/2025
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Surat
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Surat