

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad
BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MANJUNATHA G, ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.604/Hyd./2025**
निर्धारण वर्ष/**Assessment Year 2018-2019**

The Asst. Commissioner of Income Tax, Circle-5(1), Hyderabad – 500 004.	vs.	Sikander Daredia, Hyderabad – 500 014. PAN AGTPD5466A
(Appellant)		(Respondent)

राजस्व द्वारा/Revenue by :	Dr. Narendra Kumar Naik, CIT-DR
निर्धारिती द्वारा /Assessee by :	Sri S. Rama Rao, Advocate

सुनवाई की तारीख/Date of hearing:	03.11.2025
घोषणा की तारीख/Pronouncement:	12.11.2025

आदेश /ORDER

PER VIJAY PAL RAO, VICE PRESIDENT :

This appeal by the Revenue is directed against the order dated 19.02.2025 of the learned CIT(A)-National Faceless Appeal Centre [in short "NFAC], Delhi, for the assessment year 2018-2019.

2. The Revenue has raised the following grounds in the instant appeal :

- i. *The learned CIT(A) erred in deleting the addition of Rs.14.34 crores u/s 69 as the assessee did not produce any books of account before the AO nor the sources for the transactions were explained.*
- ii. *The learned CIT(A) failed to appreciate that deletion of addition made by him is self-contradictory as it was observed by him at para-7.3.1 that there was no infirmity in the actions of the AD while making the addition u/s 69 in the asst. order passed.*
- iii. *The learned CIT(A) ought to have appreciated the fact that the assessee has furnished inconsistent data of the parties from whom purchases were claimed to be made as is evident from mis-match in the names and amounts vis-à-vis the data contained in the asst. order.*
- iv. *The learned CIT(A) failed to appreciate the fact that the AO has brought on record that he could not examine the applicability of provisions of sec.56(2)(x) in the assessee's case in view of non-submission of data by the assessee.*
- v. *The learned CIT(A) failed to observe that the AO in his remand report has narrated that the sources were out of "unsecured loans" and assessee did not furnish the basic details Le. identity, creditworthiness and genuineness of such unsecured loan creditors.*

- vi. The learned CIT(A) failed to observe that the case laws relied upon by the assessee are distinguishable from the facts of the assessee's case as the assessee never produced any books of account before the AO.*
- vii. The CIT(A) ought to have set-aside the ex-parte assessment to the file of the AO as the remand report did not certify the maintenance of books of account, accountability of the transactions therein and also the genuineness of the unsecured loans which were narrated as sources for the purchase of immovable properties.*
- viii. The CIT(A) ought to have appreciated that there cannot be any single cheque No.125962 for making different payments of Rs.11,00,000 and Rs.34,00,000 to Mehdi Md. Meghjanini from SB A/c No.006001100047468 on different dates i.e. on 22.11.2017 & 05.12.2017.*
- ix. Any other ground(s) that may be urged at the time of appeal hearing.”*

3. The assessee is an individual, deriving income from real estate business in acquisition of land, construction of flats, row houses and sale of the constructed areas. The assessee has filed his return of income for the year under

consideration on 30.10.2018 declaring total income of Rs.1,55,34,610/-. The case was selected for complete scrutiny under CASS. During the scrutiny assessment, the Assessing Officer issued notice u/sec.142(1) of the Act dated 15.11.2020 along with detailed questionnaire to the assessee. When there was no reply filed by the assessee, the Assessing Officer again issued reminders on 17.12.2020 and 01.01.2021. There was no reply/compliance on behalf of the assessee to the notices issued by the Assessing Officer. Accordingly, the Assessing Officer issued show cause notice giving one more opportunity vide notice u/sec.142(1) dated 05.04.2021, but, there was no response on behalf of the assessee. Accordingly, he proposed to frame the assessment on best Judgment basis u/sec.144 vide show cause notice dated 19.04.2021. Since there was no response on behalf of the assessee, the Assessing Officer framed the assessment u/sec.144 whereby an addition of Rs.14,34,50,000/- was made by the Assessing Officer on account of unexplained investment in immovable properties.

4. The assessee challenged the action of the Assessing Officer before the learned CIT(A) and produced relevant details. The assessee claimed that the purchase of immovable properties were in the ordinary course of business of the assessee of real estate and the source of purchases was from the sale proceeds of the year under consideration and unsecured loans. The assessee has thus produced the record to show that the assessee was having sufficient funds for the said purchases made during the year. The learned CIT(A) called for a remand report from the Assessing Officer wherein the Assessing Officer has not raised any doubt about the record filed by the assessee, rather accepted the source explained by the assessee and, therefore, the addition made by the Assessing Officer was deleted.

5. Before the Tribunal, the Learned DR has submitted that during the remand proceedings the assessee has furnished only partial details and record and, therefore, based on the limited details and record, the addition made by the Assessing Officer for want of any supporting

evidences cannot be deleted. The Learned DR has submitted that the Assessing Officer in his remand report has stated that the assessee explained the source of purchases as out of unsecured loans. However, the basic details were not furnished by the assessee regarding the identity, creditworthiness and genuineness of such unsecured loan creditors. Thus, the Learned DR has submitted that when the assessee has not responded to any of the notices issued by the Assessing Officer and there is a complete failure on the part of the assessee to explain the source of the purchases to the tune of Rs.14,34,50,000/-, then, the said addition ought not to have been deleted based on the remand report without complete details and extensive examination of the relevant facts on record. The Learned DR has submitted that even the applicability of sec.56(2)(x) of the Act has not been examined in the appellate proceedings either by the learned CIT(A) or in the remand proceedings which were only for limited purpose. Thus, when the assessee has not participated in the assessment proceedings and not furnished any record before the

Assessing Officer, then, it is not feasible to verify and examine the entire record in the remand proceedings due to the time constraint and limited purpose proceedings. Thus, he has pleaded that when the assessment order was passed ex-parte due to non-participation of the assessee and non-furnishing of any record, then, the learned CIT(A) ought to have remanded the matter to the record of the Assessing Officer for proper verification and examination of the record instead of deleting the addition.

6. On the other hand, Learned Counsel for the Assessee submitted that the assessee has produced all the relevant details including books of accounts, details of sundry creditors, audit report, purchases and sales recorded in sales register along with bank account to show that these purchases/sales are made in the ordinary course of business of the assessee and the purchase of immovable properties are nothing, but, the stock-in-trade of the assessee which is routed through the profit and loss account of the assessee under the Head "Purchases/Sales", sales closing stock and further these are also reflected in

the balance-sheet of the assessee under the Head “Inventories”. The assessee furnished entire details of payments for purchase of the properties in question which were not disputed by the Assessing Officer during the remand proceedings and accepted the claim of the assessee in the remand report. Based on the remand report, the learned CIT(A) has deleted the addition and, therefore, the Assessing Officer cannot question the findings of the learned CIT(A), once the claim of the assessee was accepted in the remand proceedings. He has referred to the Assessing Officer’s observations as reproduced by the learned CIT(A) in the impugned order and submitted that on verification of the assessee’s reply and information, the Assessing Officer observed that the payments made to the sellers in respect of the investments made through bank account out of the sale receipts and unsecured loans. The Assessing Officer has also given the details of the properties which are recorded under two Heads in the audited accounts viz., Fixed Assets of Rs.47,74,600/- and Other Current Assets amounting to Rs.14,72,87,600/-. All the records comprising of ledger

extracts, purchase documents, bank account, payment summary were verified and found consistent. The Assessing Officer further noted that the assessee's investments are properly accounted. He has also filed copy of the bank account statement reflecting all the payments made during the year for purchase of the properties which are stock-in-trade and, therefore, the provisions of sec.56(2)(x) of the Act are not applicable. The learned Authorised Representative of the Assessee submitted that when the purchases of immovable properties are made in the nature of stock-in-trade of the assessee, then, no addition can be made u/sec.56(2)(x) of the Act as it would amount to double addition when all the transactions are already part of the profit and loss account of the assessee. He has, supported the impugned order of the learned CIT(A).

7. We have heard the rival submissions as well as relevant material on record. There is no dispute that during the course of assessment proceedings, the assessee did not appear before the Assessing Officer nor comply with any of the notices issued by the Assessing Officer including show

cause notice u/sec.144 of the Act. Therefore, the assessment was framed by the Assessing Officer on the basis of best Judgment whereby the entire purchases made by the assessee during the year was treated as unexplained investment u/sec.69 of the Income Tax Act, 1961. Before the learned CIT(A), the assessee filed it's reply and explained the reasons for non-appearance before the Assessing Officer and also filed additional evidences under Rule 46A of I.T. Rules, 1962. The learned CIT(A) forwarded the additional evidences filed by the assessee to the Assessing Officer and called for a remand report. The learned CIT(A) has discussed remand report in the impugned order and the observations of the Assessing Officer are reproduced as under :

“4. AO's observation: On verification of the assessee's reply and the information, it is observed (i) On perusal of the sale deed. Audit report and Bank account, it is observed that the payment made to the seller in respect of the investment made are through the bank account out of the sale receipt and unsecured loans.

(ii) The properties are recorded under two heads in the audited accounts:

Fixed Assets: Includes a flat purchased for Rs.47,74,600/-.

Other Current Assets: Includes the remaining properties totalling Rs.14,72,87,600/-

(iii) Each property purchase is detailed, with purchase deeds and supporting documents provided. The flat purchase is recorded under "Fixed Assets" as Flat No. 22, while other properties are accounted for under "Other Current Assets."

(iv) The ledger extracts, purchase documents, bank statements, and payment summaries were verified and found consistent. and assessee's investments are appropriately accounted."

8. We further note that before the learned CIT(A) and in the remand proceedings the assessee produced purchase deeds for the properties including details of transaction dates and registration no, ledger extracts from the vendors of the property, bank account statement showing the payments, audited financial statements, tax audit report in Forms-3CB and 3-CD and summary of payment related to the purchase of the properties. The Assessing Officer

examined and verified all these documents and details in the remand proceedings and finally found all the documents and transactions including payment summaries as consistent and purchases of the assessee are appropriately accounted in the books of accounts. Based on the remand report, the learned CIT(A) has deleted the addition in Paras- 7.3 to 7.3.3. as under :

“7.3. In Ground Numbers 3, 4, 5 and 6 the appellant has filed objections on the addition made by the AQ and claimed that the Assessing Officer erred in holding that no sources were available for investment of Rs.14,34,50,000/- made in the immovable properties and the Assessing Officer ought to have seen that the provisions of Sec.69 or Sec. 115BBE of the Act are not applicable to the facts of the case as none of the investments are unexplained and the said Immovable Property is work in progress for the appellant and was recorded in the books of account. The appellant has also claimed that Assessing Officer ought to have considered the fact that the appellant had substantial sources for investment in acquisition of the land and, therefore, the Assessing Officer ought not to have made any addition.

7.3.1. *The facts of the case involved and submissions filed in respect of this ground are examined and is seen that the appellant had not filed any details whatsoever before the AO to establish the source of funds used for making investments in immovable properties and whether the same were disclosed in the books of accounts. Thus, the AQ was left with no choice but to assess the same as unaccounted investments u/s 69. Thus, as during assessment proceedings no details were filed by appellant there is no infirmity in the actions of the AQ while making the addition u/s 69 in the assessment order passed.*

7.3.2. *During the appellate proceedings now the appellant has filed substantial details to establish the source of funds used for making investments in immovable properties and also filed evidences to show that the same were disclosed in the books of accounts. As the appellant had filed additional evidences a Remand Report on the additional evidences was sought by this office. As per the Remand Report Dated 07.02.2025 received with forwarding of Range Head in ITBA on 17.02.2025, it is clear that appellant has filed details and explanations before the AO to show that the Investments in the immovable properties amounting to Rs.14,34,50,000/- were disclosed in the books of accounts and the sources for acquiring these properties*

are also explained. The Remand Report received is detailed in para 6 of this order.

7.3.3. In view of the findings in the Remand Report received from the AO and facts of the case involved as per the submissions made before me during the appellate proceedings, it is clear that the investments in immovable properties amounting to Rs.14,34,50,000/- are accounted for and the sources have also been explained. Thus, the AO is directed to delete the additions made in the assessment order on this issue. Therefore, these grounds of appeal are allowed.”

9. Thus, the learned CIT(A) has observed that during the appellate proceedings, the assessee filed substantial details to establish the source of fund used for making the purchase of the immovable properties and as per the remand report dated 07.02.2025, it is clear that the assessee has filed details and explanation before the Assessing Officer to prove that investments [purchases] in the immovable properties [stock-in-trade] amounting to Rs.14,34,50,000/- were duly disclosed in the books of accounts and source of acquisition was also explained. We further note that the purchases in question though are

considered by the Assessing Officer as investment, however, the profit and loss account as well as balance-sheet of the assessee placed at page nos.29 and 31 of the paper book clearly manifest that the transaction of purchases are debited in the profit and loss account and sale of the properties during the year is credited in the profit and loss account including the closing stock/inventories. Further in the balance-sheet also the assessee has shown all the unsold stock under the Head "Inventories". Therefore, it is clear that the transaction of purchases were not in the nature of investment in the immovable properties, but, these are purchases of trade-in-stock of the immovable property and hence, as per the definition of "Property" given in Explanation to Clause-(x) of Sec.56(2) read with Explanation to Clause (vii) of Sec.56(2) only the capital asset in the nature of *inter alia*, land and building or both is treated as the property for the purpose of sec.56(2)(vii) and (x) of the Act. Thus, when the purchases were made for acquiring the stock-in-trade, then, the provisions of sec.56(2)(x) would not be applicable in the case of the

assessee. Even otherwise, neither the Assessing Officer nor the learned CIT(A) has applied the provisions of sec.56(2)(x) of the Act. Therefore, when this issue was not the subject matter of the assessment order or even the remand proceedings during the first appellate proceedings, then, the Revenue cannot be permitted to raise this issue in the appeal before the Tribunal.

10. Considering the facts and circumstances of the case as well as the relevant supporting evidences filed by the assessee, we do not find any error or illegality in the impugned order of the learned CIT(A) *qua* this issue. The same is upheld.

11. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open Court on 12.11.2025.

Sd/-
[MANJUNATHA G.]
ACCOUNTANT MEMBER

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Hyderabad, Dated 12th November, 2025

VBP

Copy to :

1.	The Asst. Commissioner of Income Tax, Circle-5(1), Room No.224, 2B, IT Towers, Masab Tank, AC Guards, Hyderabad – 500 004.
2.	Sikander Daredia, Sy.No.105/E, Flat No.103, Gold Stone, Daredia Road, Kompally, Hyderabad – 500 014.
3.	The Pr. CIT, Hyderabad
4.	DR, ITAT “B” Bench, Hyderabad.
5.	Guard file.

BY ORDER,

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