

आयकर अपीलीय अधिकरण, विशाखपटनम पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam, "DIVN" Bench, Visakhapatnam

Before Shri Manjunatha G., Accountant Member
and
Shri Ravish Sood, Judicial Member

आ.अपी.सं /ITA No.384/Viz/2025
(निर्धारण वर्ष/Assessment Year:2015-16)

Gattula Lakshmi Madhavi Visakhapatnam. PAN: AGFPG8929H	Vs.	Assistant Commissioner of Income Tax, Central Circle-1, Visakhapatnam.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri GVN Hari, Advocate (Hybrid Hearing)	
राजस्व द्वारा/Revenue by:	Dr. Aparna Villuri, Sr. AR	
सुनवाई की तारीख/Date of Hearing:	15/10/2025	
घोषणा की तारीख/Date of Pronouncement:	26/11/2025	

आदेश / ORDER

PER. RAVISH SOOD, J.M:

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 28/02/2025, which in turn arises from the order passed by the Assessing Officer (for short, "AO") under Section 144 r.w.s 147 of the Income-tax Act, 1961 (for short, "Act"), dated 16/03/2022 for the Assessment Year 2015-16. The assessee has assailed the impugned order on the following grounds of appeal before us:

1. "The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.
2. The learned Commissioner of Income Tax (Appeals) is not justified in deciding the appeal ex-parte.
3. Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) is not justified in sustaining the addition of Rs.18,90,000 made by the assessing officer u/s 56(2) (vii) (b) of the Act towards difference between SRO value and actual consideration.
4. The learned Commissioner of Income Tax (Appeals) ought to have held that the assessing officer is not justified in not referring the issue of fair market to the DVO in spite of the fact that the appellant raised objections for adoption of SRO value.
5. Any other ground that may be urged at the time of appeal hearing."

2. Succinctly stated, the assessee, an individual, is engaged in the business of construction under the name and style of 'M/s. Aakruthi Constructions'. Survey proceedings under section 133A of the Act were conducted on 21/03/2019, in the case of the assessee's husband, Sri G.V. Harikrishna and during the course of the survey proceedings, incriminating material pertaining to the assessee were found which revealed that he had during the subject year carried out certain immovable property transactions. Thereafter, the AO issued notice under section 148 of the Act, dated 31/03/2021 which however remained uncompiled with by the assessee. Although, the assessee initially failed to respond to the notices issued under section 142(1) of the Act, but finally vide her reply dated 11/03/2022 furnished certain

information along with computation of income disclosing an income of Rs. 6,46,780/- for the subject year.

3. The AO, based on the information furnished by the assessee, observed that she had during the subject year acquired a flat bearing No.501 & 502 in Bharat Apartments, Dwarakanagar, Visakhapatnam vide registered deed No.1715/2014 for a consideration of Rs.20 lakhs on which she had incurred further expenditure towards stamp duty and registration charges of Rs.2,34,370/-. However, the AO observed that the stamp value (SRO valuation) of the subject property was Rs.38.90 lakhs. It was the assessee's claim that as the subject property, i.e., flat No. 501 & 502 in Bharat apartments (supra) was on the fifth floor without any approval of GHMC to construct the same, therefore, there was always a risk of demolition of the said property on complaint by anyone or on inspection by the authorities. Accordingly, it was the claim of the assessee that since the super structure remained at a risk of demolition, therefore, the cost of land was taken at Rs. 12.25 lakhs (i.e., Rs.3500 per sq yard) while for the balance amount was considered towards the cost of structure. Accordingly, it was the assessee's claim that though the assessee had paid the stamp duty on the value of Rs. 38.90 lakhs, but the real market value of the same on the relevant date was rightly taken by her at Rs. 20 lakhs.

4. As is discernible from record, the AO did not find favour with the explanation of the assessee and held the difference between the stamp value (SRO valuation) of Rs. 38.90 lakhs and the sale consideration disclosed by the assessee of Rs.20 lakhs, i.e., 18.90 lakhs as income under the provisions of section 56(2)(vii)(b) of the Act. Accordingly, the AO vide his order passed under section 144 r.w.s 147 of the Act, dated 16/03/2022 determined the income of the assessee at Rs. 23,30,530/-.

5. Aggrieved, the assessee carried the matter in appeal before the CIT(A) but without success. For the sake of clarity, the observations of the CIT(A) are culled out as under:

“6.3 As per the provisions of section 56, as mentioned above the difference amount between the purchase consideration of an immovable property and stamp duty value shall be deemed income of the assessee. Besides the difference amount in the above case is Rs. 18,90,000/- which is exceeding Rs. 50,000/-. Thus, the provisions of section 56 (2)(vii)(b) of the Act are squarely applicable in the case of the appellant. Although the appellant had contended the addition, no specific submissions/documents were submitted. No substantial arguments were placed with respect to the grounds raised. These grounds were merely raised by the appellant without submitting any cogent explanation along with corroborative evidences in support of claim. The appellant has not furnished any information/explanation contrary to the findings of the Assessing Officer. In view of the same, the contention of the appellant is without any merit. Accordingly, the addition made by the AO to the tune of Rs. 18,90,000/- towards income of the appellant under the provisions of section 56(2)(vii)(b) of the Act is hereby upheld. the ground no. 2 is hereby dismissed.

6.4 The ground no. 1 is general in nature, no need of separate adjudication

6.5 In result, the appeal is dismissed.”

6. The assessee being aggrieved with the order of the CIT(A) has carried the matter in appeal before us.

7. Sri GVN Hari, Advocate, the Learned Authorized Representative (for short, "Ld. AR") for the assessee, at the threshold of hearing of the appeal submitted that the AO despite specific objection by the assessee to the adoption of the stamp value (SRO valuation) as the deemed consideration as per section 56(2)(vii)(b) of the Act, grossly erred in law and facts of the case in not referring the matter for valuation to the Valuation Officer as contemplated in the "first proviso" to section 56(2)(vii)(b) r.w.s 50C(2)(a) of the Act. The Ld. AR to buttress his contention had specifically drawn our attention to the written submissions that were filed by the assessee before the AO, wherein she had specifically explained as to why the value of the subject property was taken at Rs.20 lakhs as against the stamp value (SRO valuation) as of Rs.38.90 lakhs.

8. Per contra, Dr. Aparna Villuri, the Learned Senior Departmental Representative (for short, "Ld. Sr. DR") relied upon the orders of the lower authorities.

9. We have heard the Learned Authorized Representative of both parties, perused the orders of the lower authorities and the material available on record.

10. Admittedly, it is a matter of fact borne from record that the stamp duty value (SRO valuation) of the subject property, i.e., flat bearing No. 501 & 502 in Bharat apartments, situated at Dwaraka Nagar, Visakhapatnam purchased by the assessee vide Document No. 1715/2014 was Rs.38.90 lakhs as against the consideration of Rs.20 lakhs (pre value) for which the same was purchased by the assessee, and the assessee vide the written submissions filed in the course of the assessment proceedings had categorically explained the reason as to why the said property was purchased for a consideration of Rs.20 lakhs, i.e., below the stamp duty value (SRO valuation). For the sake of clarity, we deem it apposite to cull out the written submissions filed by the assessee before the AO.

“A flat bearing No. 501 & 502 in Bharat apartments, situated at Dwarakanagar Visakhapatnam purchased vide document no. 1715/2014 for a consideration of Rs 20.00 lakhs and incurred Rs 2,34,370 towards stamp duty and registration chares. Entire amount was paid in cash. The market value for the stamp duty purpose is at Rs.38.90 lakhs. This being in the Fifth floor and there is no approval of GVMC to construct this flat, it is always a risk to have such buildings. There is a risk of demolished at any time, on complaint by any one or on inspection of the authorities. Whereas the stamp duty value is assessed on the base of land cost fixed by the authority for that area and cost of structure for any apartment. Since the structure is at risk, cost of land is taken Rs 3500 Per sq yard, which is Rs 12.25 lakhs,

balance is considered as the cost of structure. Though the assessee has paid stamp duty for value of Rs 38.90 lakhs the real market value of the property on that date is to considered and value at Rs 20.00 lakhs only. The said amount of Rs 20.00 lakhs paid out of the income of previous years earned by the assessee in her business.”

11. In our view, as the assessee had specifically explained the reason as to why the aforesaid property was purchased for a consideration of Rs.20 lakhs, i.e., below the stamp duty value (SRO valuation) at Rs.38.90 lakhs, therefore, the AO as per “first proviso” to section 56(2)(vii)(b) r.w.s 50C(2) of the Act was statutorily obligated to have referred the valuation of the subject property to the valuation cell. Having not so done, we are of the view that the AO had clearly exceeded his jurisdiction, and despite the claim of the assessee raised before him that the value adopted by the stamp valuation authority, i.e., SRO valuation exceeded the market value of the property as on the date of transfer had failed to refer the matter to the Valuation Cell, therefore, the very basis for adoption of the stamp value (SRO valuation) is fallacious. Accordingly, in our considered view, the matter in all fairness merits to be restored to the file of the AO who is directed to refer the valuation of the subject property as required per the mandate of section 56(2)(vii)(b) r.w.s 50C(2) of the Act to the Valuation Officer and redecide the issue. Needless to say, the AO shall in the course of the set aside proceedings afford a reasonable opportunity of being heard to the assessee who shall

remain at liberty to substantiate her claim based on fresh documentary evidence, if any.

12. Resultantly, the appeal of the assessee is allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in the open court on 26th November, 2025.

Sd/- (MANJUNATHA G.) ACCOUNTANT MEMBER	Sd/- (RAVISH SOOD) JUDICIAL MEMBER
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Hyderabad,
Dated 26th November, 2025
OKK / SPS

Copy to:

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1	Gattula Lakshmi Madhavi, Flot No.203, Bharat Towers, 5 th Lane, Dwaraka Nagar, Visakhapatnam.
2	Assistant Commissioner of Income Tax, Central Circle-1, O/o. ITO, Pratyakshkar Bhavan, MVP Colony, Visakhapatnam.
3	The Pr. CIT, Visakhapatnam.
4	The DR, ITAT Visakhapatnam Bench
5	Guard File

By Order

Sr. Private Secretary,
ITAT, Visakhapatnam.