

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI**

**BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)
AND
SMT. RENU JAUHRI (ACCOUNTANT MEMBER)**

**I.T.A. No. 4770/Mum/2025
Assessment Year: 2018-19**

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| Dinesh Sunderrao Ghosalkar 302, Parvati Industrial Estate New Sunmill Compound Lower Parel Mumbai - 400013 [PAN: ADZPG2152M] | Vs. | ITO, Ward – 7(3)(1) |
| (Appellant) | | (Respondent) |

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| Assessee by | Shri N. B. Chavan, A/R |
| Revenue by | Shri Annavarani Kosuri, Sr. D/R |

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| Date of Hearing | 19.11.2025 |
| Date of Pronouncement | 28.11.2025 |

ORDER

Per Smt. Beena Pillai, JM:

Present appeal filed by the assessee arises out of order dated 11/06/2025 passed by NFAC, Delhi [hereinafter “the Ld. CIT(A)”] for assessment year 2018-19, on following grounds of appeal:-

“1. That the order passed by the Commissioner of Income Tax (Appeals) [CIT(A)] dated 11/06/2025, confirming the addition of Rs.7529652/- under Section 56(2)(x) of the Income-tax Act, 1961, is bad in law, contrary to the facts and evidence on record, and liable to be quashed.

2. That the CIT(A) erred in holding that the difference between the agreement value and the stamp duty value (SDV) of the immovable property purchased by the appellant is taxable under Section 56(2)(x), without appreciating that the transaction was a bona fide distress sale executed due to loan recovery proceedings initiated against the seller by Bank of Baroda, and hence no addition is warranted.

3. That the CIT(A) erred in ignoring the judicial precedents cited by the appellant, including but not limited to ACIT vs Subodh Menon (ITA No. 676/Mum/2015), ITO vs Mahavir Enterprises (ITA No. 1304/Mum/2023)

and Vaani Estates (P) Ltd. v. ITO (ITA No. 1352/Chny/2018), which support the appellant's contention that Section 56(2)(x) cannot be invoked in cases of genuine, bona fide transactions without any element of tax evasion.

4. That the CIT(A) erred in rejecting the appeal on the ground that no new evidence was produced during the appellate proceedings, without appreciating that all relevant evidence (including sale deed, bank statements, and documents evidencing the seller's financial distress) were already on record before the AO, and the CIT(A) failed to adjudicate the issue on merits in light of the available evidence.

5. That the CIT(A) erred in concurring with the Assessing Officer's findings mechanically, without independently examining the circumstances of the transaction and the appellant's submissions in the context of Section 56(2)(x) and the provisos thereto.

6. That the addition of Rs.7529652/- under Section 56(2)(x) is arbitrary, excessive, and unjustified, and the same deserves to be deleted in full.

7. That the appellant craves leave to add, alter, modify, or withdraw any ground of appeal at or before the time of hearing of this appeal.”

2. Brief facts of the case are as under:-

The assessee filed his return of income on 30.10.2018 by declaring a total income of Rs.1,73,36,820/- for year under consideration. The case was selected for Scrutiny based on the information with the department that the assessee that the assessee entered into purchase/sale transactions in two immovable properties, in which the sale consideration paid was less than the stamp value. The scrutiny proceedings were initiated by issuing notice u/s. 143(2) of the Act.

2.1. During the course of assessment proceedings, notice u/s. 142(1), show-cause letters were issued to the assessee. The Ld.AO observed from the details available on record that there was a difference of Rs.75,29,652/- between the market value of the properties as per the stamp authorities and the consideration paid

by the assessee for purchase of two properties. The Ld.AO issued show-cause notice to explain as to why the difference of Rs.75,29,652/- shall not be added to his total income. In response to the show-cause notice, the assessee furnished written submission along with agreements. The Ld.AO did not accept the contention and explanation of the assessee and invoked provisions of section of 56(2)(x) of the Act. The difference of Rs.75,29,652/- was thus added to the total income of the assessee under the head Income from Other Sources.

Aggrieved by the order of the Ld. AO, assessee preferred appeal before Ld.CIT(A).

3. The Ld.CIT(A) after considering the submissions filed by the assessee observed and held as under:-

“5.4. On perusal of the assessment order, it is noticed that the appellant contended before the AO that seller M/s Mirah Realtors Pvt. Ltd., was in acute financial difficulty and was heavily indebted to bank and offered to sell to the appellant it a cheaper price. The AO did not accept the contention of the appellant. The AO clearly explained the provisions of section of 56(2)(x) of the Act inserted in the Finance Act, 2017 w.e.f. 01.04.2017 and by making addition of Rs.75,29,652/- being the difference of purchase value and the value adopted by the stamp duty authority.

During the appeal proceedings, the appellant re-iterated the same submission before the undersigned and did not furnish any new evidence other than before the AO except judicial decisions, which are also not relevant to the facts of the case. I concur with the finding of the AO that the transaction attracts the Provisions of Section 56(2)(x) of the Act and reject the contention of the appellant.

Under the facts and circumstances of the case, the appeal of the appellant deserves dismissal based on the available material and merits of the case.”

Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before this *Tribunal*.

4. The Ld.AR, at the outset, submitted that, the matter may have to referred to the DVO to determine the fair value. He submitted that, the assessee purchased the property under a distress sale vide agreement dated 28/04/2017 placed at page 28 to 41 of the paperbook. He submitted that, considering the fact that, seller was saddled with proceedings under the SARFAESI Act initiated by Bank of Baroda, and was undergoing financial difficulties. The Ld. AR submitted thus that, the seller agreed to sell the properties at a value of Rs. 2,81,43,500/- as against the stamp duty value of Rs. 3,56,73,152/-. The Ld. AR further submitted that, assessee purchased two industrial units situated at Parvati Industrial Estate, Lower Parel, Mumbai.

The Ld.AO invoked Section 56(2)(x)(b)(3) of the Act and computed and made addition of the difference between the stamp duty valuation and the agreement value under the head "other sources". The Ld.AR submits that, addition made deserves to be deleted as assessee has not paid to the seller, anything over and above the agreement value.

4.1. On the contrary, the Ld. DR relied on the orders passed by the authorities below.

We have perused the submissions advanced by both sides in light of records placed before us.

5. It is noted that assessee has not disputed stamp duty valuation due to the circumstances that prevailed to determine the value at which the property at the time of purchase. The assessee

has at all stages objected to the valuation based on valuation by stamp authority. It is an admitted fact that the revenue has nothing on record to establish that the assessee paid anything over and above the agreement value to the seller. Under such circumstances, the property should have been referred to the DVO u/s 50C(2) of the Act. It is noted that, neither the Ld. AO nor the Ld. CIT(A) referred the matter to the DVO.

5.1. We, therefore, remit this issue back to the Ld. AO with a direction to refer the matter to the DVO, in accordance with law and to value the said property u/s 50C(2) of the Act. Needless to say that, proper opportunity of being heard must be granted to the assessee. All other grounds raised by the assessee herein, therefore, become academic at this stage.

Accordingly, grounds raised by the assessee stands partly allowed for statistical purposes.

In the result, appeal filed by assessee stands partly allowed for statistical purposes.

Order pronounced in the open court on 28/11/2025

Sd/-

**(RENU JAUHRI)
Accountant Member**

Sd/-

**(BEENA PILLAI)
Judicial Member**

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By order

(Asstt. Registrar)
ITAT, Mumbai