

**INCOME TAX APPELLATE TRIBUNAL  
AGRA BENCH "DB": AGRA  
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER  
AND  
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER  
(Through virtual hearing)**

**ITA No. 37/AGR/2023  
(Assessment Year: 2015-16)**

Smt Kiran Lata Bhadoria, L/H of Late Shri Baldev Singh Bhadoria, MIG-20, Darpan Colony, 474005, MP	Vs.	Income Tax Officer, Ward- 3(2), Gwalior
(Appellant)		(Respondent)
<b>PAN: AHOPB3071D</b>		

Assessee by :	Shri Somil Agarwal, Adv Shri Deepesh Garg, Adv
Revenue by:	Shri Sukesh Kumar Jain, CIT(DR)
Date of Hearing	15/09/2025
Date of pronouncement	04/12/2025

**ORDER**

**PER M. BALAGANESH, A. M.:**

1. The appeal in ITA No. 37/AGR/2025 for AY 2015-16, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. NFAC', in short] dated 04.01.2023 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 29.12.2017 by the Assessing Officer, ITO-3(2), Gwalior (hereinafter referred to as 'ld. AO').

2. At the outset, we find that we find that during the pendency of proceedings before this Tribunal, the Assessee Shri Baldev Singh Bhadoriya expired on 01-04-2024. The fact of death of Assessee was duly intimated by the Learned AR before this Tribunal along with the copy of the Death

Certificate. Accordingly, Revised Form No. 36 has been filed before us by Smt Kiran Lata Bhadoriya (wife of Late Shri Baldev Singh Bhadoriya) along with affidavit of Shri Aditya Singh Bhadoriya (son of deceased) and Smt Tanvi Bhadoriya (daughter of deceased) giving no objection to their mother for handling this Income Tax Appeal before this Tribunal. Accordingly, the Revised Form No. 36 filed by Smt Kiran Lata Bhadoriya along with the grounds raised therein are taken on record and taken up for adjudication.

3. Though the Assessee has raised several grounds before us, we find that the effective issues to be decided in this appeal are as under:-

a) Whether an addition of Rs. 42,22,250/- could be made as unexplained money, which represent cash investment made for the purpose of registration and stamp duty for purchase of agricultural land, in the facts and circumstances of the instant case ?

b) Whether an addition of Rs. 5,24,34,000/- could be made by adopting the stamp duty value as purchase consideration under Section 56(2)(vii) of the Act, in the facts and circumstances of the instant case for purchase of agricultural land.

4. We have heard the rival submissions and perused the materials available on record. The return of income for the assessment year 2015-16 was filed by the Assessee on 31-03-2017 declaring total income of Rs. 12,13,900/-. During the year under consideration, the Assessee has shown income from salary received from Shatabdika Society, short-term capital gains, income from other sources and income from business and profession.

During the year under consideration, the Assessee has purchased an agricultural land measuring 5.874 hectares situated at village Baretha, Patwari, Halka 101, Vikaskhand-Morar on 12-08-2014. On perusal of the

purchase deed, it was noticed that purchase consideration of the property has been shown at Rs. 73,06,000/- by the Assessee, whereas the Stamp Valuation Authority had adopted the market value of the property for the purpose of levy of stamp duty at Rs. 5,97,40,000/-. The Assessee had incurred a sum of Rs.42,22,250/- on account of stamp duty, registration and other fees on account of purchase of agricultural land in cash. The Assessee explained the source of purchase of property together with the incurrance of registration and stamp duty expenses in cash as under:-

- a) Loan from M/s Shatabdika Mahila Kalyan Samiti -Rs. 72,95,000/-
- b) Sale of land during assessment year 2013-14 of Rs.48,78,000 from which a sum of Rs. 42,22,250/- was incurred by cash by the Assessee.

The Assessee enclosed the confirmation letter from M/s Shatabdika Mahila Kalyan Samiti along with their income tax return and bank statements before the Learned AO. The Assessee also enclosed the computation statement for assessment year 2013-14 along with photocopies of sale deed of land registered in assessment year 2013-14.

5. The Learned AO observed that Assessee had sold land during financial year 2012-13 and no prudent businessman would keep such cash at home for long period when banking facilities are available and that Assessee himself is having bank accounts in his name. Accordingly, the source of cash investment of Rs. 42,22,250/- to have emanated out of sale proceeds of land in assessment year 2013-14 was disbelieved by the Learned AO and accordingly an addition of Rs. 42,22,250/- was made as unexplained investment in the assessment.

6. With regard to another issue of difference in consideration by substituting the value fixed by the stamp valuation authorities for the

purpose of stamp duty to be the purchase consideration of agricultural land, the Learned AO applied the provisions of section 56(2)(vii) and added a sum of Rs. 5,24,34,000/- in the assessment. Before the Learned AO, the Assessee had duly objected to the application of provisions of section 56(2)(vii) of the Act per se on the ground that the agricultural land is situated more than 8 kilometres of municipal limits and accordingly would fall outside the definition of capital asset as defined in section 2(14) of the Act and since the subject mentioned land purchased is not a capital asset, the provisions of section 56(2)(vii) of the Act per se could not be made applicable thereon. The Assessee also furnished a letter dated 7-12-2017 issued by Apar, Tehsildar, Morar, Gwalior confirming that the land in question is more than 10 kilometres from the limit of municipal corporation. The Learned AO however in order to verify the distance of the land from municipal limit deputed his Inspector to furnish a report after making necessary enquiry in this regard. The Inspector of the office of the Learned AO furnished his detailed report on 19-12-2017 and submitted that distance of land from main road (Bhind Road) is approximately 1 kilometre and distance from Nagar Nigam limit i.e. Vidyabharati School (which is border of municipal limit) is 4.5 kilometres and distance from Chambal gate of airport (which is under the municipal limit) is 5.5 kilometres. Further Apar, Tehsildar, Morar vide letter dated 19-12-2017 informed that he had not issued any letter on 7-12-2017 confirming the distance of the land to be 10 kilometres. Therefore, a show cause notice was issued to the Assessee on 19-12-2017 for furnishing his explanation on 21-12-2017. Final opportunity was given to the Assessee to give his replies on 26-12-2017 at 3 P.M. The said notice returned back as unserved stating that nobody is residing at that address. Accordingly, the Learned AO concluded that the land situated is within 8 kilometres and disbelieved the Tehsildar certificate furnished by the

Assessee and proceeded to make an addition of Rs. 5,24,34,000/- as differential value in purchase consideration by applying the provisions of section 56(2)(vii) of the Act. This action of the Learned AO was upheld by the Learned CIT(A).

7. Before us, the Assessee had furnished the following additional evidences in terms of Rule 29 of the Income Tax Appellate Tribunal Rules, 1963 in support of his contentions:-

a) Copy of Cash from Statement along with Bank Statement of Assessee for Assessment Year 2013-14 to Assessment Year 2015-16 to substantiate that cash was available with the Assessee from Bank withdrawals. These are enclosed in pages 135 to 154 of the paper book.

b) Copy of relevant extract of Register of Tehsildar to prove that Certificate dated 23-04-2019 was issued by the Tehsildar only. This is enclosed in page 129 and page 133 of the paper book.

c) Copy of Certificate dated 27-03-2025 from Registered Valuer wherein it was certified that the land in question was situated 8.3 km from the limits of nearest municipality i.e. Gwalior along with notification of Gwalior Municipality prescribing the limits of the Gwalior Municipality. This is enclosed in pages 153 to 166 of the paper book.

d) Copy of valuation report dated 7-02-2025 of a Registered Valuer which showed that the fair market value of the said land was lower than the stamp duty value. This is enclosed in pages 168 to 172 of the paper book.

e) Copy of No Objection Certificate (NOC) taken by the seller from Collector of District Gwalior before selling the said land to the Assessee. This is enclosed in pages 173 to 175 of the paper book.

f) Copy of FIR filed by the seller as the said land was in adverse position. This is enclosed in pages 176 to 177 of the paper book.

8. We find that the Assessee in the petition praying for admission of additional evidences dated 19-05-2025 had duly adduced the reasons for not filing these additional evidences before the lower authorities. We find that these additional evidences are relevant and crucial for the adjudication of the issues in dispute before us. However, the said additional evidences require factual verification by the Learned AO. Hence, in the interest of justice and fair play, we deem it fit and appropriate, to restore this issue to the file of the Learned AO for de novo adjudication of the disputes before us in accordance with law in the light of the additional evidences submitted by the Assessee. The Assessee is also given liberty to furnish fresh evidences, if any, in support of his contentions. With these observations, the entire grounds raised by the Assessee are allowed for statistical purposes by restoring to the file of Learned AO.

9. In the result, the appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open court on 04/12/2025.

-Sd/-  
**(SUNIL KUMAR SINGH )**  
**JUDICIAL MEMBER**

-Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 04/12/2025  
A K Keot

Copy forwarded to

1. Applicant

2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi