

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'DEHRADUN'/ NEW DELHI)
BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
ITA No. 147/Del/2024 (A.Y. 2016-17)**

Himanshu Kukreja Matta Garg & Co. CA 15- Astley Hall, Dehradun, Uttarakhand PAN:AHIPK9462F	Vs	Income Tax Officer Income Tax Office, 13-A, Subhash Road, Dehradun, Uttarakjhand
Appellant		Respondent

Assessee by	Sh. S. K. Matta, CA
Revenue by	Sh. A. S. Rana, Sr. DR
Date of Hearing	12/11/2025
Date of Pronouncement	23/12/2025

ORDER

PER YOGESH KUMAR, U.S. JM:

The present appeal is filed by the Assessee against order of the Commissioner of Income Tax (Appeal)-29, New Delhi ('Ld. CIT (A)' for short) order dated 11/09/2024 for Assessment Year 2016-17.

2. The Assessee raised following grounds of Appeal in the present Appeal:-

- "1. The learned Assessing officer Commissioner of Income Tax(Appeals) have erred in making and upholding addition of Rs.8.64.15.000/- on account of alleged gift u/s 56(2)(vii) of the Income Tax Act, 1961.*
- 2. The order passed is arbitrary, against the provisions of law and facts of the case.*
- 3. Any other ground arising at the time of or before hearing of appeal."*

3. Brief facts of the case are that, during the year under consideration assessee purchased immovable property admeasuring 18010.8 sq.m bearing Khasra No. 939 situated at Mauza Ranipokhri Grant, Pargana Parwa, Tehsil Rishikesh, District Dehradun through two sale deed being executed on 22.6.2015 for total sale consideration of Rs. 8,64,15,000/-. During the course of assessment proceedings, Assessee contended that he has purchased land for and on behalf of the society- Kulwant Kaur Kukreja Educational Society, Dehradun which was accepted by the AO while framing the assessment order u/s 143(3) on 2.11.2018 accepting returned income of Rs. 10,02,000/-. The case of the Assessee was selected for scrutiny under 'limited scrutiny' to examine issue - whether investment and income relating to properties are duly disclosed.

3.1. Subsequently, the case was later taken up for revision u/s 263 of the Act by Pr. CIT, Dehradun. The Pr. CIT Dehradun, vide order passed u/s 263 of the Act dated 26.03. 2021, set aside the assessment order passed u/s 143(3) of the Act holding the same as erroneous and prejudicial to the interest of revenue as per para no. 2 of the said order passed u/s 263 of the Act with direction to the A. O. to pass a fresh assessment order after due verification and after affording proper opportunity of being heard to the assessee. Relevant abstract of part-2 of

order passed u/s 263 is re-produced hereunder for the sake of convenience:

(i) Assessee's claim of purchase of land in question on behalf of the society- Kulwant Kaur Kukreja Educational Society, Dehradun was not correctly examined by the Assessee.

(ii) The AO has not called for the bank account from which payment of Rs.8,64,15,000/- were made to seller- Shri Madan pal Singh to verify whether the payments were made by the assessee from his individual bank account or from the bank account of the society- Kulwant Kaur Kukreja Educational Society, Dehradun.

(iii) There is clear violation of provisions of section 13(1) of I.T. Act which prohibits any trust/society from diverting its income directly or indirectly for the benefit of any person referred to in sub section (3).

(iv) The assessee has purchased property in his name, payment for which has been made by the society. The assessee received property without any consideration and hence the value of property including stamp duty should have been considered assessee's income in view of provisions of section 56(2) of the Act.

(v) The A.O. has not considered that fact that the assessee is an individual and a separate person and the investment in purchase of land should have been seen from his sources. Further, the AO has not passed on the information regarding payments made by society- Kulwant Kaur Kukreja Educational Society, Dehradun to purchase property in the name of the assessee to the concerned AO of the society.”

3.2 Consequent to the order passed u/s 263 of the Act, assessment proceedings have been initiated and an assessment order came to be passed u/s 143(3) r.w. Section 263 r.w. Section 144B of the Act on 21/03/2022 by making an addition of Rs. 8,64,15,000/-. As against the assessment order dated 21/03/2022, the Assessee preferred Appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 11/09/2024 dismissed the Appeal filed by the Assessee.

4. The Ld. Counsel for the Assessee submitted that the Ld. CIT(A) committed error in upholding the addition of Rs. 8,64,15,000/- on account of alleged gift u/Section 56(2)(vii) of the Act. Further submitted that the property has been purchased by the KulwantKukreja Education Society in the name of the Assessee and the Assessee is not the real owner of the property. To substantiate his claim, Assessee has relied on the agreement/Memorandum of Understanding dated 21/12/2018, therefore, submitted that both the Lower Authorities have committed grave error in making/confirming the addition which deserves to be deleted. The Ld. Counsel has taken us through the document produced in the Paper Book and made elaborate submissions, which were duly consider.

5. Per contra, the Ld. Ld. Departmental Representative submitted that the property has been registered in individual capacity of the Assessee and the Revenue documents are still stands in the name of the Assessee not in the name of Kulwant Kukreja Education Society and the A.O. has rightly made addition u/s 56(2) (vii) of the Act which requires no interference at the hands of the tribunal. The Ld. Department's Representative relying on orders of the Lower Authorities sought for dismissal of the Appeal.

6. We have heard both the parties and perused the material available on record. During the year under consideration, two sale deeds came to be executed on 22/06/2015 and 24/06/2015 by Madan Pal Singh in favour of the Assessee for total sale consideration of Rs. 8,64,15,000/-, wherein immovable property at measuring 18010.8 square meters bearing Khasra No. 939 situated at Mauza Ranipokhri Grant, Pragna Parwa Tehsil Rishikesh, District Dehradun. The Ld. A.O. during the course of assessment proceedings, considering the claim of the Assessee that the property in question has been purchased for and on behalf of the society-Kulwant Kukreja Education Society, Dehradun, found that, the properties in question have been purchased by the Assessee without consideration. Therefore, applied the provisions of Section 56(2)(vii)(b) Act against the Assessee and made addition of Rs. 8,64,15,000/-.

7. During the appellate proceeding, the Ld. CIT(A) while dismissing the appeal of the Assessee held as under:-

“DISCUSSION DURING APPEAL PROCEEDINGS

During the year under consideration assessee purchased immovable property admeasuring 18010.8 sq.m bearing Khasra No. 939 situated at MauzaRanipokhri Grant, ParganaParwa, Tehsil Rishikesh, Dist Dehradun through two sale deed being executed on 22.6.2015 for total sale consideration of Rs. 8,64,15,000/-. During the course of assessment proceedings, assessee submitted that he has purchased land for and on behalf of the society- Kulwant Kaur Kukreja Educational Society, Dehradun. Thus, it is clear that

properties in question have been purchased by the assessee without consideration and, therefore, provisions of section 56(2)(vii)(b) are attracted. Accordingly, a sum of Rs. 8,64,15,000/-, being actual sale consideration and stamp duty paid in respect of immovable properties in question, is treated as income of the assessee within the meaning of provisions of section 56(2)(vii) (b) being received properties without consideration and added to total income of the assessee.

The provisions of section 56(2)(vii) are reproduced here -

[(vii) where an individual or a Hindu undivided family receives, in any previous year, from any person or persons on or after the 1st day of October, 2009. -

(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, without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property:]

(c) any property, other than immovable property.

(i) without consideration the aggregate fair market value of which exceeds fifty thousand rupees. the whole of the aggregate fair market value of such property.

(ii) 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 where the stamp duty value of immovable property as referred to in sub-clause (b) 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 sub-clause (b) as they apply for valuation of capital asset under those sections

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

(a) from any relative, or

(b) on the occasion of the marriage of the individual, or

(c) under a will or by way of inheritance or

(d) in contemplation of death of the payer or donor, as the case may be or

(e) from any local authority as defined in the Explanation to clause (20) of section 10, or

(f) 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 (230) of section 10, or

(g) from any trust or institution registered under section 12AA.

During scrutiny proceedings there was no reply to the objections filed. further assessee was asked to submit the details submitted during scrutiny proceedings which evidenced that the issue of property purchased in the name of the member was taken up and after that only no adverse comments made during the scrutiny proceedings with regard to purchase of property. Further no evidence was produced by the society from which it may be inferred that land was purchased by society in the name of shriHimanshuKukreja, any resolution by the society in this respect authorizing shriHimanshuKukreja to purchase land on behalf of society. Neither any document was produced by the society which proves that land was later transferred to society by shriHimanshuKukreja. As per land records, the legal owner of the said properties is shriHimanshuKukreja only. During the assessment u/s 147 r wis 1448 the assessing officer accepted the explanation of the taxpayer that assessee had provided documentary evidences explaining why it was purchased in the name of member of the society instead of trust. No addition was made in the name of the trust in the scrutiny assessment order dt 30/3/2022. The addition is in the name of shriHimanshuKukreja in the scrutiny assessment order dt 143(3) rw.s 263 dt 21/3/2022 which is the order under appeal. In the result the addition at Rs 86415000 is upheld.

The assessing officer passed an order dt 2/11/2018 u/s 263 by the PCIT, Dehradun for Ay 2016-17. The PCIT had earlier requested to redo the assessment once again since no proper verification was done by the assessing officer. The hon ITAT vide its order dt 25/3/2022 upheld the PCIT's order u/s 263 dt 2/11/2018. The order reads as follows –

Subsequently, the Id. PCIT perused the record and noted that the order passed by the AO is erroneous and prejudicial to the interest of the revenue, since, the AO has not examined the issue during the assessment proceedings. The AO has not called for the bank account from which the payments of Rs.8.64, 15,000/- were made to the seller, Sh. Madan Pal Singh to verify whether the payments were made by the assessee from his individual bank account or from the bank account of Kulwant Kaur Kukreja Educational Society. The claim of the assessee that the land was purchased on behalf of the society was not correctly examined by the AO during the assessment proceedings. The AO has also not examined the violation of the provisions of Section 13(1)(c) of the 1. T. Act which prohibits any trust/society from diverting its income directly or indirectly for the benefit of any person referred to in Sub-Section (3). He, therefore, issued a show cause notice asking the assessee to explain as to why the order passed by the AO should not be revised u/s 263 of the 1.T. Act, since, the order is erroneous and prejudicial to the interest of the revenue. Rejecting the various explanation given by the assessee and relying on various decisions, the Id. PCIT cancelled the Assessment Order passed by the AO with a direction to pass a fresh Assessment Order after due verification and after affording proper opportunity of being heard to the assessee by recording the reasons.

The hon ITAT had directed to verify and call for the details and pass order accordingly. The order passed by the assessing authority is the order under appeal. After discussing various aspects it is held that the assessing officer had rightfully added the amount of Rs 86415000 since the taxpayer purchased the property from the accounts of KulwantKukreja Educational Society and there is diversion of title into the hands of the assessee. The addition of Rs 86415000 is upheld.

In the result the appeal is dismissed.”

8. It was the specific claim of the Assessee that the properties so purchased by the Assessee was on behalf of the society i.e. Kulwant Kukreja Education Society, Dehradun. Admittedly the Assessee has not paid the sale consideration of Rs. 78,64,15,000/- and also not paid the stamp duty and the registration fees. We have verified the sale deeds produced by the Assessee in the paper book. In both the sale deeds, the said claim of the Assessee that property has been purchased on behalf of the Society has not been mentioned. By way of those two sale deeds, Assessee has acquired absolute right title and interest over the properties in his personal capacity. During the course of hearing, on specific query made by the Bench to the ld. Assessee's Representative, it was informed to the Bench that as on this day, the Revenue Records of the subject properties stands in the name of the Assessee and not in the name of Kulwant Kukreja Education Society.

9. Though the Assessee has produced agreement/Memorandum of Understanding dated 28/11/2018 entered between M/sKulwant Kukreja Education Society and the Assessee and ors, the said agreement has been entered only on 21/12/2018 which is after lapse of nearly three and half years from the date of the sale deed, which is nothing but an afterthought. Apart from the same, it is mentioned in the said MOU that the property will be purchased in the name of individuals and shall be

transferred in the name of Kulwant Kukreja Education Society subsequently. As stated earlier till this date the properties stands in the name of the Assessee. The Assessee has not produced any document to show that the property purchased in his individual capacity has been shown as the property of Kulwant Kukreja Education Society in its Audited Financial statement. Considering the fact that the property has been purchased in individual capacity, the Revenue Records still stands in the name of the Assessee and in the absence of any documents to controvert the findings of the A.O. as well as the Ld. CIT(A), we find no merit in the argument of the Ld. Assessee's Representative that the Assessee has purchased the property on behalf of Kulwant Kukreja Education Society. In our considered opinion, both the authorities below committed no error in invoking the provisions of Section 56(2)(vii) (b) of the Act. Finding no merits in the Grounds of Appeal of the Assessee, we dismiss the same.

10. In the result, Appeal of the Assessee is dismissed.

Order pronounced in the open court on 23rd December, 2025

Sd/-

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Date:- 23.12.2025
R.N, Sr.P.S*

(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI