

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, KOLKATA
BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.509/KOL/2025
(निर्धारण वर्ष / Assessment Year : 2015-2016)

G.S.Procon Private Limited, 388, Barakhola Road, Mukundpur, Kolkata-700099	Vs	ACIT, Circle-5(2), Kolkata
PAN No. :AADCG 6018 J		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by		Shri Somnath Ghosh, AR & Miss Muskan Sethia, AR
राजस्व की ओर से /Revenue by	:	Shri Bonnie Deb Barma, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	01/01/2026
घोषणा की तारीख/ Date of Pronouncement	:	01/01/2026

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order of the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 29.01.2024 for the assessment year 2015-2016.

2. The appeal of the assessee is filed belatedly by 345 days. In this regard, the Managing Director on behalf of the assessee company has filed an application for condonation of delay stating therein that due to some unavoidable circumstances and due to his illness, the appeal could not be filed within the time, therefore, he requested that the delay in filing the appeal may kindly be condoned and the appeal of the assessee company be admitted for hearing. Ld. Sr. DR also did not raise any serious objection to condone the delay. Considering the submission of the Id. AR and the prayer of the Managing Director on behalf of the assessee company, the

delay of 345 days in filing the appeal is condoned and the appeal is admitted for hearing.

3. It was submitted by the Id. AR that the assessee is in the business of civil contractor. In the course of assessment, the Assessing Officer had invoked the provisions of Section 56(2)(vii)(b)(i) of the Act (wrongly mentioned by the Assessing Officer as 56(1)(vii)(b)(i)) and had disallowed the difference between the documented value and the market value in respect of flats sold by the assessee to various purchasers. It was the submission that the assessee is a company and the assessee is also recognised as a company in the assessment order in column 5 of the status. It was the submission that the provision of Section 56(2)(vii)(b)(i) of the Act applies to an individual or HUF. It was the submission that the assessee being not an individual nor an HUF, the provision of Section 56(2)(vii)(b)(i) of the Act is not applicable to the assessee. Ld.AR also placed reliance on the decision of the Hon'ble Bombay High Court in the case of Neelkamal Realtors & Erectors India (P.) Ltd., reported in [2017] 79 taxmann.com 238 (Bombay). It was the submission that the addition as made by the Assessing Officer and as confirmed by the Id. CIT(A) is liable to be deleted.
4. In reply, Id.Sr. DR submitted that the assessee had not cooperated in the assessment proceedings or before the Id.CIT(A). He vehemently supported the order of the Id. Assessing Officer and Id. CIT(A).
5. We have considered the rival submissions. As it is noticed that the issue is purely a legal issue and as the provision of Section 56(2)(vii)(b)(i) of the Act does not apply to the assessee, which is admittedly a company,

the addition as made by the Assessing Officer and as confirmed by the Id.CIT(A) stands deleted. Our view is supported by the decision of the Hon'ble Bombay High Court in the case of Neelkamal Realtors & Erectors India (P.) Ltd., referred to supra. Thus, the appeal of the assessee is allowed.

6. In the result, appeal of the assessee is allowed.

Order dictated and pronounced in the open court on 01/01/2026.

Sd/-
(RAJESH KUMAR)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-
(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

कोलकाता Kolkata; दिनांक Dated 01/01/2026

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कोलकाता** / DR,
ITAT, Kolkata
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

(Assistant Registrar)
Income Tax Appellate Tribunal, Kolkata