

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

I.T.A. No.1113/Srt/2025
(Assessment Year: 2018-19)

Pratish Shah(HUF), 7006 World Trade Centre, Ring Road, Surat-395002. [PAN:AANHP4421 M]	Vs.	Income Tax Officer, Ward-1(2)(1), Surat.
(Appellant)	..	(Respondent)

Appellant by :	Shri Rajesh C Shah, AR
Respondent by:	Shri Ajay Uke, Sr. DR
Date of Hearing	11.12.2025
Date of Pronouncement	08 .01.2026

ORDER

PER SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER:

This appeal is filed by the assessee against the order passed by the National Faceless Appeal Centre(NFAC), Delhi (hereinafter referred as "CIT(A)") dated 12.08.2025 for the Assessment Year 2018-19 in the proceeding u/s.143(3) of the Income Tax Act.

2. The brief facts of the case are that the assessee had filed return of income for A.Y 2018-19 on 31.08.2018, declaring total income of Rs.2,81,870/-. The case was selected for scrutiny under CASS. In the

course of assessment proceeding, the Assessing Officer found that the assessee had purchased an immovable property during the year for a consideration of Rs.63,24,500/-. However, the stamp duty value of the property was 87,81,709/-. The difference of Rs.24,57,209/- was considered as other income and added under the provision of section 56(2)(vii)(b) of the Act. The assessment was completed u/s.143(3) of the Act on 19.02.2021 at a total income of Rs.27,39,075/-.

3. Aggrieved with the order of the Assessing Officer, the assessee had filed an appeal before the First Appellate Authority which was decided by the Ld. CIT(A) vide impugned order and the appeal of the assessee was **dismissed**.

4. Now the assessee is second appeal before us. The assessee has raised the following grounds of appeal:

1. The Ld. AO has erred in not following the proviso to section 56(2)(vii)(b) of the Income Tax Act, 1961, even though the same was brought to the notice of the AO through a reply to a show-cause notice, and also the Ld. CIT(A) has erred in confirming the same.

2. The Ld. AO has erred in applying section 56(2)(vii)(b), which came into effect from 01.04 2014, whereas the assessee had agreed to purchase property on 18.02.2013 by paying a partial amount through the banking channel, and also the Ld. CTT(A) has erred in confirming the same.

3. The 1d. AO has erred in making an addition of Rs. 24,57,209/- being the difference between the stamp duty valuation and the Purchase value of flat; however, stamp duty valuation is taken of the year in which registration is made and not of the year in which it was agreed to purchase and partial payment was made by account payee cheque, and also the Ld. CIT(A) has erred in confirming the same

4. The Act of 1.d. AO is not only mental harassment to the assessee but also a financial loss.

5. The appellant reserves the right to add, alter, amend, or withdraw any grounds of appeal.

5. Shri Rajesh C Shah, Ld. AR appearing for the assessee submitted that though the property was purchased for a consideration of Rs.63,24,500/- during the year, the first payment for purchase of the property was made on 18.02.2013 vide cheque of Rs.1,00,000/-. Thereafter, the periodical payments were made during the years 2014 to 2017. The assessee had thus agreed to purchase the property on 18.02.2013 itself, when the first payment was made by him. The Ld. AR submitted that the stamp duty value of the property as on date of the agreement i.e. on 18.02.2013 should have been considered by the Assessing Officer for making the addition, if any, under the provisions of section 56(2)(vii)(b) of the Act.

6. Per Contra Shri Ajay Uke, Sr. DR supported the order of the Assessing Officer. He submitted that no agreement dated 18.02.2013 was brought on record by the assessee, therefore, the contention that the stamp duty value of the property as on 18.02.2013 should be considered, was not correct.

7. We have considered the rival submissions. There is no dispute to the fact that the assessee had purchased an immovable property during the year for a consideration of Rs.63,24,500/-, the stamp duty value of which was Rs.87,81,709/-. The Assessing Officer has treated the excess value of Rs.24,57,209/- as per stamp duty valuation, as income of the assessee u/s. 56(2)(vii)(b) of the Act. The proviso to said section

stipulated that where the date of agreement fixing the amount of consideration and the date of registration of the property were not the same, then the stamp duty value as on the date of agreement should be taken for the purpose of working of the income u/s. 56(2)(vii)(b) of the Act. The contention of the assessee is that the first payment towards purchase of property was made on 18.02.2013 and, therefore, the assessee had entered into an agreement for the purchase of property on 18.02.2013 itself. According to the Revenue, the assessee has not brought on record any agreement dated 18.02.2013 for the purchase of property. The contention of the assessee is that the assessee had made an oral agreement and accordingly the payment was made over the years from 18.02.2013 till 30.06.2017 and thereafter a formal agreement of sale was entered into on 23.11.2017. However, no evidence for payment of Rs.1,00,000/- by cheque on 18.02.2013 has been brought on record. Neither the sale deed of the property has been filed so that payment made on 18.02.2013 could be verified therefrom. In the interest of justice, therefore, we deem it proper to set-aside the matter to the file of Jurisdictional Assessing Officer with a direction to verify the payment of Rs.1,00,000/- made by cheque dated 18.02.2013 to the seller either from the sale deed or any other evidence brought on record by the assessee in this respect. The assessee too is directed to produce evidence for payment of Rs. 1,00,000/- by cheque on 18.02.2013 towards purchase of the property before the AO and also submit any other document or clarification as required by him. If the contention of the assessee regarding the first payment towards purchase of property on 18.02.2013 is found correct, then the Assessing Officer should adopt the stamp duty value of the property as

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on 18.02.2013 in order to work out the deemed income u/s. 56(2)(vii)(b) of the Act.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

The order is pronounced in the open Court on 08 .01.2026.

**Sd/-
(SANJAY GARG)
JUDICIAL MEMBER**

**Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER**

(True Copy)

Ahmedabad; Dated 08 .01.2026

MV

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

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

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Surat