

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "D" BENCH : MUMBAI

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
AND
MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER

ITA No. 7336/Mum/2025
Assessment Year : 2018-19

Mahendra Manshi Nagda, 202, Kanan Building, Seth Motishaw Lane, Mumbai-400010. PAN : AAHPN5436C	vs.	Income Tax Officer, Ward-20(1)(1), Piramal Chamber, Mumbai-400012.
(Appellant)		(Respondent)

For Assessee :	Shri Sameer Dalal
For Revenue :	Shri Annavarani Kosuri

Date of Hearing :	20-01-2026
Date of Pronouncement :	23-01-2026

ORDER

PER VIKRAM SINGH YADAV, A.M :

This is an appeal filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’], dated 11-09-2025, pertaining to Assessment Year (AY) 2018-19.

2. Briefly the facts of the case are that the assessment in this case was completed u/s. 143(3) r.w.s. 144B of the Income Tax Act, 1961 (‘the Act’) vide order dt. 05-06-2021, wherein the AO brought to tax 50% of the excess amount of stamp duty value over purchase consideration amounting to Rs. 27,19,804/- on protective basis in the hands of the

assessee. The assessee carried the matter in appeal before the Ld.CIT(A), who has since dismissed the appeal filed by the assessee and against the said order, the assessee is in appeal before us.

3. During the course of hearing, the Ld.AR submitted that during the year under consideration, the assessee along with his wife has entered into an agreement for purchase of office at Bhandup, Mumbai for an agreement value of Rs. 2,12,70,230/- against the stamp duty value of Rs. 2,67,09,738/-. During the assessment proceedings, the explanation of the assessee was called as to why the addition u/s. 56(2)(x) of the Act in respect of the difference between the stamp duty value amounting to Rs. 2,67,09,738/ and Rs. 2,12,70,230/- should not be made in the hands of the assessee. In response, it was submitted that the assessee's name was added only for convenience purpose, real beneficiary was assessee's wife, Smt. Manjula Nagda, who had made all the payments and also deducted TDS u/s. 194-IA of the Act and a copy of Form-26QB as well as confirmation letter from the wife of the assessee were also submitted. In spite of the same, 50% of the difference between the agreement value and market value amounting to Rs. 27,19,804/- was brought to tax by the AO, invoking the provisions of section 56(2)(x) of the Act.

4. It was further submitted that during the appellate proceedings, submission was made by the assessee, reiterating the above facts and also the fact that the assessment order u/s. 143(3) of the Act has since been passed in case of assessee's wife, wherein the whole of difference between the agreement value and the stamp duty value has been brought to tax in the hands of the wife of the assessee u/s. 56(2)(x) of the Act. It was submitted that the attention of the Ld.CIT(A) was also drawn to the fact that the assessee's wife has since opted for and availed the benefit of

Vivad-Se-Viswas Scheme, 2024 by filing Form-I, dt. 28-12-2024, accepting the addition of Rs. 54,39,508/- and has paid taxes thereon and subsequently, final settlement order dt. 03-04-2025 in Form-4 was also issued by the competent authority. The copy thereof was also submitted before the Ld.CIT(A). However, the Ld.CIT(A) has failed to take cognizance of the same and has confirmed the order so passed by the AO.

5. It was accordingly submitted that where the whole of the addition has been made in the hands of the wife of the assessee and where she has already paid taxes thereon and the tax disputed attained finality with issue of final order under VSVS Scheme, there is no basis for continuing with the protective addition in the hands of the assessee.

6. The Ld. DR has been heard, who is not able to controvert the factual position that 100% difference between stamp duty value and the agreed consideration was brought to tax in the hands of the wife of the assessee in terms of order passed u/s. 143(3) of the Act and the wife of the assessee has since availed the benefit of Vivad-Se-Viswas Scheme and the matter has since been settled by issuance of order in Form-4, dt. 03-04-2025 by the Competent authority.

7. We have heard the rival contentions and perused the material available on record. In light of the undisputed fact that the addition in the hands of the assessee has been done merely on protective basis and as far as substantive additions were concerned, 100% addition was made in the hands of the wife of the assessee, who has since settled the tax dispute by opting for Vivad-Se-Viswas Scheme, and has paid due taxes which has also been duly taken on record and the requisite order in Form-4, dt. 03-04-2025 has since been issued by the competent authority. In light

of the same, we do not find any legal and justifiable basis for sustenance of addition on protective basis in the hands of the assessee and the same is hereby directed to be deleted.

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

Order pronounced in the open court on 23-01-2026

Sd/-
[MS. KAVITHA RAJAGOPAL]
JUDICIAL MEMBER

Sd/-
[VIKRAM SINGH YADAV]
ACCOUNTANT MEMBER

Mumbai,
Dated: 23-01-2026

TNMM

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai