

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC': NEW DELHI**

**BEFORE,
SHRI S.RIFAUH RAHMAN, ACCOUNTANT MEMBER
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No.767/Del/2024
(ASSESSMENT YEAR 2018-19)**

Mr. Ramnarayan Ward No.8, Usman Budaun Uttar Pradesh-243631 PAN:ARAPR5301C (Appellant)	Vs.	Income Tax Officer 2(3), Badun (Respondent)
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Assessee by	Shri Rajeev Khandelwal, CA Shri Jaind Kumar, Advocate
Respondent by	Shri Om Parkash, Sr. DR

Date of Hearing	16/05/2024
Date of Pronouncement	14/06/2024

ORDER

PER S.RIFAUH RAHMAN, AM:

1. This appeal has been filed by the Assessee against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ["Ld. CIT(A)", for short], dated 22/12/2023 for Assessment Year 2018-19.

2. The brief facts of the case are, the assessee filed its return of income on 28/08/2018 declaring total income of Rs.2,98,290/-. Subsequently, the case was selected for limited scrutiny assessment. For the reason of investment in immovable property and purchase value of property was less than the value as per stamp authority. In order to verify the same, notices u/s 143(2) and 142(1) were issued and served on the assessee. The Assessing Officer observed that the assessee purchased a property at Rs.20,00,000/- while the stamp value of the said property is Rs.44,54,000/-. Notices u/s 142(1) were duly issued and served on the assessee dated 10/12/2019 to provide details of land purchase along with bank statement and explain the difference in purchase value and stamp value.

3. In response the assessee submitted vide letter dated 20/01/2020 that the land purchased by the assessee is an agricultural land and is situated outside the Municipal Area. He also submitted that the details of the property and mode of payment the same is reproduced by the AO at page 2 of the order. Subsequently, the assessee was asked to provide documentary

proof of the above said agricultural land. However, the Assessing Officer not received any documentary evidences and accordingly, he proceeded to adopt the purchase value of Rs.44,54,000/- and the difference of Rs.24,54,000/- was treated as income through other sources and the same was added to the total income of the assessee u/s 56(2)(x) of the Act.

4. Aggrieved with the above order, the assessee preferred an appeal before NFAC Delhi and filed the detailed submissions before him. Further considering the submissions of the assessee and assessment order, the Ld. CIT(A) observed that the assessee has submitted hand written declaration on plain paper by Lekhpal. The same was reproduced by him at page 14 of the order. He observed that the assessee has not fulfilled the conditions as laid down in Section 56(2)(x) of the Act and further by relying on the decision of M/s Satluj Credit & Holdings Private Limited vs. ITO, the decision of Hon'ble Madras High Court, he dismissed the appeal filed by the assessee.

5. Aggrieved with the above order, the assessee is in appeal before us raising following grounds of appeal:-

“The Commissioner of Income-tax (Appeals) at National Faceless Appeal Centre (hereinafter referred to as the CIT(A)-NFAC) erred in upholding the action of the Officer at the National e-assessment Centre (hereinafter referred to as the Assessing Officer) in making an addition of Rs.24,54,000 under section 56(2)(x) of the Act, being difference between the consideration paid on acquisition of an immovable property and the stamp duty value of the said property.

The appellant contends that on the facts and in the circumstances of the case and in law, the CIT(A)-NFAC ought not to have upheld the action of the Assessing Officer inasmuch as he has not appreciated the facts of the case in its entirety and hence, the impugned addition made by the Assessing Officer is bad in law and needs to be deleted.”

6. At the time of hearing, the Ld. AR submitted that the assessee has purchased agricultural land which is not capital asset as per section 2(14) of the Act and being agricultural land deeming provision of section 56(2)(x) will not apply. Further, he submitting that the transaction entered by the assessee which is the Arms Length Price and there is no relationship with the seller. He brought to our notice the findings of the Ld. CIT(A) from page 12 to 14 of the order.

7. On the other hand, the Ld. DR relied on the findings of the lower authorities and submitted that the Ld. CIT(A) should have

referred the issue back to the Assessing Officer instead of dismissing the appeal.

8. Considered the rival submissions and material placed on record, we observed that the assessee purchased agricultural land and paid a sum of Rs.20,00,000/- as purchased consideration. The assessee also filed the relevant information before the Assessing Officer, the same was reproduced by him at page 2 of the order. As per the information available on record, it is clear that assessee has purchased agricultural land of 23 bighas at Village:- Prathvipur, Tehsil:- Jalalabad, Distt:- Shajahnpur. However, the stamp duty value was determined at Rs.44.54 lacs and further assessee also filed a letter from Tehsildar in the hand written form with Tehsil of Jalalabad, Dist Shajahanpur. Since, Tehsildar had issued the relevant certificate with his signature and stamp, even though, it is in written form, the Ld. CIT(A) should not have rejected the same. In our considered view the assessee has submitted the relevant information which shows that assessee has purchased the agricultural land at Jalalabad. Since, the assessee has purchased agricultural land the same is outside

the definition of capital asset, therefore, the deeming provision u/s 56(2)(x) cannot be invoked in this case. Accordingly, the addition made by the Assessing Officer is accordingly deleted.

9. In the result, appeal filed by the assessee is allowed.

Order pronounced on 14th June, 2024

Sd/-

(SUDHIR PAREEK)
JUDICIAL MEMBER

Sd/-

(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 14/06/2024

Pk/sps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI