IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “A”, MUMBAI

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
AND SMT. RENU JAUHRI, ACCOUNTANT MEMBER

I.T.A No.6045/Mum/2025
(Assessment Year: 2017-18)

Awadhnarayan Bhagwanta Singh, 95/99, C/o Sandesh Dharameshwar, T.H. Kataria Marg, Mahim, Mumbai-400 016 **PAN: AANPS9265N**	**vs**	**Income-tax Officer 4(1)(2), Mumbai,** 533, Aayaakar Bhavan, Mumbai-400 020
APPELLANT		**RESPONDENT**

Assessee by	:	Shri Prakash Jotwani
Respondent by	:	Shri Surendra Mohan (SR DR)
Date of hearing	:	25/11/2025
Date of pronouncement	:	27/11/2025

O R D E R

Per: **Anikesh Banerjee (JM)**:

The instant appeal of the assessee filed against the order of the National Faceless Appeal Centre(NFAC),Delhi [hereinafter, ‘Ld.CIT(A)”], order passed under section 250 of the Income-tax Act, 1961 (in short, ‘the Act’) for the Assessment Year 2017-18 and date of order 16/09/2025. The impugned order was emanated from the order of the Learned Income-tax Officer, Ward 22(1)(6), Mumbai (in short, 'Ld.AO') passed under section 143(3) of the Act and date of order 10/12/2019.

2. The brief facts of the case are that the assessee filed his return of income, which was processed under section 143(1) of the Act. The case was subsequently selected for limited scrutiny through CASS. During the assessment proceedings, it was noticed that the assessee had purchased a property for Rs.1,10,00,000/-, whereas the stamp duty valuation of the same property, as on 30/03/2017, was Rs.1,69,87,000/-. The Ld. AO, therefore, added the differential amount of Rs.59,87,000/-, being the difference between the stated consideration and the value adopted by the stamp valuation authority, by invoking the provisions of section 56(2)(vii)(b) of the Act. The assessee, being aggrieved, preferred an appeal before the Ld. CIT(A). The Ld. CIT(A) partly allowed the appeal. In respect of the applicability of section 115BBE, the Ld. CIT(A) granted relief to the assessee; however, the addition of Rs.59,87,000/- made under section 56(2)(vii) was upheld. The assessee has now filed the present appeal before us.

3. The Ld. AR appeared and filed a paper book containing **pages 1 to 215**, which is taken on record. The Ld. AR submitted that the assessee was allotted the property vide allotment letter dated 29/11/2012 issued by M/s Shah Housecon Pvt. Ltd. in respect of Flat No. B-3102 (**APB page 69**). The assessee had made advance payment of Rs.5,00,000/- through the banking channel on 18/08/2011, drawn on Canara Bank, Matunga Branch. A copy of the receipt is placed at **APB page-66**, and the corresponding bank statements reflecting the payments to the promoter are annexed at **APB pages 10 to 13**.

The Ld. AR submitted that all relevant documents in support of the assessee's claim were furnished before the Ld. AO vide letter dated 14/11/2019. The Ld. AO accepted the proposition that the valuation of the property should be considered with reference to F.Y. 2012-13, relevant to A.Y. 2013-14. However, in the absence of a contemporaneous valuation report, the Ld. AO proceeded to adopt the stamp duty valuation pertaining to the impugned assessment year.

4. In the first appellate proceedings, the Ld. CIT(A) observed that the assessee had not furnished any documentary evidence in support of his claim. The Ld. AR, however, drew our attention to **APB pages 80 to 156**, demonstrating that all such documents were, in fact, submitted before the Ld. CIT(A). Despite the availability of these documents, the Ld. CIT(A) failed to consider or verify them and proceeded to uphold the addition.

5. The Ld. DR argued and relied on the order of the revenue authorities.

6. We have heard the rival submissions and examined the documents available on record. A plain reading of the proviso to Section 56(2)(vii)(b) of the Act reveals the following:

"56(2)(vii) ………………………..

(b) Any immovable property,—

(i) Without consideration, if the stamp duty value exceeds fifty thousand rupees, the stamp duty value of such property shall be considered.

(ii) If acquired for consideration that is less than the stamp duty value by an amount exceeding fifty thousand rupees, the portion of the stamp duty value exceeding such consideration shall be considered.

Provided that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value as on the date of the agreement may be taken for the purposes of this sub-clause:

Provided further that this proviso shall apply only if the consideration, or part thereof, has been paid by any mode other than cash on or before the date of the agreement for the transfer of such immovable property." (Emphasis supplied)

In the present case, the assessee entered into an agreement, and the allotment letter was duly issued by the promoter. The payment was made through banking channels. Therefore, the stamp duty valuation of the property should be taken as on the date of allotment, i.e., F.Y. 2012-13. Upon perusal of the valuation report, it is noted that the valuation of the property, as determined by the registered valuer, is Rs.1,10,00,000/- (**APB page-117**). There is no discrepancy in the purchase value declared by the assessee. Consequently, the addition of Rs.59,87,000/-, representing the difference between the set forth value and the stamp duty value, cannot be sustained in the impugned assessment year. Accordingly, the said addition is quashed. Further, we remit the matter to the file of the Ld. AO with a direction to consider the stamp duty valuation as per the financial year of the agreement, i.e., F.Y. 2012-13, and to recompute the assessment accordingly. Needless to say, the assessee should get reasonable opportunity of hearing in set aside assessment proceeding. The impugned appeal order is set aside, and the matter is remanded to the Ld. AO for this limited purpose.

7. In the result, the appeal of the assessee bearing **ITA No.6045/Mum/2025** is allowed for statistical purpose.

Order pronounced in the open court on 27/11/ 2025

Sd/- sd/-

(SMT. RENU JAUHRI) (ANIKESH BANERJEE)
ACCOUNTANT MEMBER JUDICIAL MEMBER

Mumbai,दिनांक/Dated: 27/11/2025
Pavanan

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., **मुंबई**/DR, ITAT, MUMBAI
5. गार्डफाइल/Guard file.

BY ORDER,

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(Asstt. Registrar), **ITAT, MUMBAI**