

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.21/Del/2025
(Assessment Year: 2018-19)**

Income Tax Officer Room No. 1210, E-2, Block, Civic Center, Minto Road, New Delhi – 110002	Vs.	Ratna Aggarwal Krishna Nagar, New Delhi – 110051
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AEFPA6066B		
Appellant	..	Respondent

Appellant by :	Sh. Mayank Patawali, Adv. Sh. Akash Ojha, Adv.
Respondent by :	Sh. Krishna Kumar Ramawat, Sr. DR

Date of Hearing	01.12.2025
Date of Pronouncement	04.02.2026

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the revenue against the order dated 04.11.2024 of the Ld. National Faceless Appeal Centre (NFAC) Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld. ‘FAA’)

in DIN & Order No: ITBA/NFAC/S/250/2024-25/1070080500(1) arising out of the assessment order dated 09.02.2024 u/s 147 r.w.s 144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') passed by the Assessment Unit, Income Tax Department, for AY: 2018-19.

2. The assessee is an individual and filed return declaring income of Rs.3,40,540/- and subsequently case was reopened on the ground that assessee has received an immovable property by way of gifts deed amounting to Rs.33,43,440/- it did not fall in the definition of specified relatives as defined in Section 56(2) of the Income Tax Act, 1961. Assessee filed return and declared an amount of Rs.303,43,440/- income from other sources later on during reassessment proceeding assessee revised computation claiming that the said property were received by her in family settlement and therefore the value of the property is not taxable, however, AO did not agree and made addition of the same.

3. The case of the assessee is that immovable property was received by Shri Rajiv Agarwal by way of registered gift deed executed on 12.06.2017 of value of Rs.303,43,440/- and the said transaction does not file in the

definition of specified relatives in Section 56(2) of the Act and was actually by way of family settlement it has come in the hands of assessee. The transaction was carried out between the assessee and her brother in law Mr. Ravi Agarwal son of late Shri A.D. Agarwal who was real brother of late Shri Sahdev Prasad (father in law of assessee). Shri A.D. Agarwal in his dying wish has desired to gift some shares of his property to the family of his brother late Shri Sahdev Prasad and the same was pursued by his son Dr. Ravi Agarwal who is reputed doctor and a Non-Resident Indian settled in USA for last 36 years. Ravi Agarwal in order to own the wish of his father registered the property M-142, 1st Floor, Kailash Part II, Delhi in the name of assessee by way of family settlement. It was claimed by the assessee that inadvertently while filing return in reopening assessment the value of the property was shown as income from other sources under wrong advice, therefore, revised computation was filed. It comes up from the submission which are made before Ld. CIT(A) that the claim of the assessee was also that late Shri A.D. Agarwal has purchased the property with contribution coming up from late Shri Sahdev Prasad Aggarwal who was real brother of

Shri A.D. Aggarwal and father in law of assessee. Thus in a way pleading it to be a joint hindu family property.

4. The assessee had succeeded before the Ld. CIT(A) as ld. CIT(A) considered the family settlement/family arrangement to be a genuine transaction and observed that AO has not made any adverse remark about the same thereby the allegation by way of registered gift deed was not 'transfer' as defined u/s 2(47) of the Act.

5. The thrust of contention of ld. DR was on the assertion that story of family settlement is a concocted story and subsequently created to add validity to the registered gift deed which was hit by provision of Section 56(2) of the Act.

6. As we go through the assessment order we find that during the assessment proceeding it was mentioned that the gift is outcome of family settlement and details account of the background of family settlement was narrated. The AO has not at all commented on the merits of this claim and the computation of the taxable income in para 5 would show that income declared in the ITR filed in response to notice u/s 148 of the Act itself has been picked up.

7. Now what is material is that though initially assessee had filed the return declaring the value of the property of the gift as income but during the assessment proceedings had changed the stand which is altogether left out of consideration but Id. CIT(A) has taken into consideration this revised claim and in light of decision of Hon'ble Supreme Court in case of Goetze India (2006) 284 ITR 323 (SC) and the revenue while filing this appeal has not question the discretion of Ld. First Appellate Authority in admitting the additional claim and to examine the issue in context to validity of family settlement.

8. Coming to the grounds as raised and the contention of Ld. DR the only thing to be considered if the property received by the assessee under the family settlement would still it considered to be deemed income u/s 56(2)(vii)(b) of the Act as the donor Ravi Aggarwal s/o late Shri A.D. Aggarwal does not fall in the definition of relatives. In this context, we are of the considered view that proviso to sub-clause (b) of clause (vii) of Sub-section (2) of section 56 of the Act provide that clause (vii) will not apply in the case of property is received from any relative and the definition of relative in Explanation (e)(ii) mentions that in case of Hindu Undivided

Family any member thereof. Meaning there by that if the property is received without consideration from member of HUF, same shall not be considered deemed income.

9. Now, in the case of assessee the manner in which the facts giving rise to gift are narrated vary apparently, the family settlement was between members of the family, who constituted HUF, by due to reason of manner of acquisition of property and respective antecedent rights and interest in the subject property. The execution of gift was only a formality to transfer a valid title consequent to family settlement. These factual aspects of family settlement have been duly pleaded before AO but as rightly observed by the Id.CIT(A), AO has not disputed same on any factual or legal aspect so as to now challenge in appeal. Thus have to be admitted as settled as held by Id. CIT(A).

10. Thus, at one end the conclusion of Id. CIT(A) that the transaction of gift only culminated the family settlement which does not fall in the definition of 'transfer' for the purpose of Section 2(47) of the Act needs no interference. On the other hand, the provisions of Section 56(2) of the Act,

also do not apply as the gift deed was merely execution of a formal document amongst the family members constituting HUF.

10. In the light of aforesaid we find no substance in the ground as raised and the appeal of revenue is **dismissed**.

Order pronounced in the open court on 04.02.2026

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

Sd/-
(Anubhav Sharma)
JUDICIAL MEMBER

Dated 04.02.2026

Rohit, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI