

**IN THE INCOME-TAX APPELLATE TRIBUNAL “G” BENCH,
MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.5585/MUM/2025
(A.Y. 2018-19)**

Shyamsunder Bansidhar Reengusia Plot No. B-6/147, Jindal House, Chittranjan Nagar, Mumbai – 400 077, Maharashtra	v/s. बनाम	Income Tax Officer, Ward–26(1)(1), Kautilya Bhawan, C41-43, Avenue 3, Near Videsh Bhavan, G Block BKC, Gilban Area, Bandra Kurla Complex, Bandra (East), Mumbai – 400051, Maharashtra
स्थायी लेखा सं./जीआइआर सं./ PAN/GIR No: ADNPR4852K		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Assessee by :	Shri Gopal Sharma and Ms. Vaibhavi Bhagat, ARs
Revenue by :	Shri Rajgopal Parthasarathi, Sr. DR

Date of Hearing	30.06.2026
Date of Pronouncement	31.08.2026

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The instant appeal emanating from the appellate order dated 09.07.2025 is preferred by the assessee against the order passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] pertaining to assessment order passed u/s. 147 r.w.s. 144B of the Income-tax Act, 1961



[hereinafter referred to as “Act”] dated 09.03.2024 for the Assessment Year [A.Y.] 2018-19.

2. The grounds of appeal are as under:-

1. *Erroneous Addition under Section 50C Based Solely on Stamp Duty Valuation*

- The learned CIT(A) failed to appreciate that the property purchased by the appellant suffered from various disadvantages including:
- Absence of Occupation Certificate (OC) at the time of purchase
- Non-availability of basic amenities in the area
- These factors justified the lower purchase price compared to stamp duty value

The CIT(A) erroneously treated stamp duty value as conclusive fair market value without considering these material facts.

2. *Failure to Refer Valuation to DVO under Section 50C(2)*

The learned CIT(A) erred in not directing the AO to refer the valuation of the property to the District Valuation Officer (DVO) under Section 50C(2) of the Act, despite specific written request by the appellant. The provisions of Section 56(2)(x)(b) incorporate the provisions of Section 50C by reference, and when an assessee disputes the stamp duty valuation, it is mandatory for the AO to refer the matter to DVO.

Relied upon:

Sunil Kumar Agarwal vs. CIT (2015) 372 ITR 83 (Cal)

S. Muthuraja vs. CIT (2014) 369 ITR 483 (Mad)

Hari Om Garg vs. CIT ITAT Agra in ITA No. 342/Agra/2017

3. *Joint Ownership and Incorrect Attribution of Income*

The property in question was jointly purchased by the appellant and his wife, with the wife being the first named owner in the registered sale deed. The learned CIT(A) failed to consider the implications of joint ownership and erroneously attributed the entire deemed capital gain to the appellant, which is factually and legally incorrect.

Details of the ownership are as under;

Name of Party	Date of Payment	Total Payment	Amount paid	Ratio
Manju Devi Reengusia	16.08.2017	3500000	3535354	58.92 %
TDS deducted by Manju Devi Reengusia		35354		
Shyam sunder Reengusia Token Money	10.08.2017	200001		
Shyam sunder Reengusia	16.08.2017	2240001	2464648	41.08%
TDS deducted by Shyam sunder B Reengusia		24646		
Total		6000002	6000002	100%



On the facts and circumstances of the case and in law, the learned CIT(A) erred in confirming the addition of Rs. 34,81,500/- under Section 56(2)(x)(b) in the hands of the appellant when his share in the property was only 41.08% (Rs. 14,30,200/-). The CIT(A)'s reasoning that the entire amount should be added because the wife's case "escaped scrutiny" is legally untenable and violates the principle of proportionate taxation based on actual ownership.

4. Violation of Principles of Natural Justice

The learned CIT(A) erred in justifying the addition of the entire disputed amount in the appellant's hands on the ground that his wife's case had "escaped scrutiny". This approach:

- Violates the principle that each person should be taxed only on his/her actual share of income.
- Creates a situation of potential double jeopardy if the wife's case is subsequently assessed.
- Is contrary to established principles of tax jurisprudence.

5. Non-Consideration of Supporting Evidence

The appellant had submitted documentary evidence including market comparable and valuation indicators to demonstrate that the actual sale price of 8 consideration was in line with prevailing market rates. The CIT(A) failed to consider such evidence, resulting in an arbitrary and unjust addition.

6. Misapplication of Section 56(2)(x)(b)

The learned CIT(A) failed to appreciate that Section 56(2)(x)(b) should be applied strictly in accordance with the actual ownership pattern. The provision cannot be stretched to tax one co-owner for the entire deemed benefit when the property is jointly owned.

7. Error in not considering Tolerance Limit

The learned CIT(A) failed to consider that even if DVO valuation was obtained, any difference within the tolerance limit (as established by various ITAT decisions) should not attract addition under Section 56(2)(x)(b).

Relied upon:

Kiran Ashok Desai vs. PCIT ITAT Mumbai (tolerance limit of 10%)

8. Error in Upholding Penalty Proceedings

The learned CIT(A) erred in dismissing the ground against penalty proceedings under Section 270A without proper adjudication. The penalty proceedings are not justified as:

- There was no concealment of facts or furnishing of inaccurate particulars
- The appellant had disclosed all material facts and raised legitimate disputes
- The matter involves a debatable issue of law and valuation



3. All the grounds above excepting ground no.8 pertain to the addition made by the AO in respect of the difference in stamp duty value and agreed price of certain immovable property. In this case, information was received by the AO that during the year under consideration, the assessee had purchased an immovable property for agreement value of Rs. 60,00,000/- as against the stamp duty value determined by the registering authority at Rs. 94,81,500/-. Accordingly, proceedings u/s. 147 of the Act were initiated and a notice u/s. 148 of the Act was issued. In this case, the assessee had filed return of income for the year under consideration but he had not offered the difference amount of stamp duty value determined by the registering authority and the transaction value shown by him i.e. Rs. 34,81,500/-, being the difference between the above between the agreed value and stamp duty value which was therefore, liable to be charged to tax under the head 'Income from other sources under section 56(2)(x)(b) of the Act.

3.1 The explanation offered by the assessee in this regard was rejected on the ground that the stamp duty value of any particular property, situated in particular area was fixed by the District Level Empowered Committee after considering the relevant factors after looking into so many parameters; which could not be challenged. However, the assessee had accepted the value determined by the stamp



duty authority and also paid stamp duty accordingly and had not challenged the value determined by the registering authority at appropriate appellate authority appointed by the State Government.

4. Aggrieved by the said order, the assessee filed appeal before the Id.CIT(A) challenging the action of the AO. It was contended that he, along with his wife, Mrs. Manju Shyamsunder Reengusia, jointly purchased a flat in Chembur, Mumbai, for a total consideration of Rs. 60,00,002/- on 14.08.2017. The property was acquired with an ownership ratio of 41.08% in favour of the assessee and 58.92% in case of his spouse. However, the stamp duty value (SDV) of the property was determined to be Rs. 94,81,500/-, resulting in a differential amount of Rs. 34,81,500/- between the agreement value and the SDV. The Id.CIT(A) on enquiry from the AO found that the wife of the assessee had also not disclosed the difference in her own return for the relevant year. Consequently, he observed that apportioning only 41.08% of the disputed amount of Rs. 34,81,500/-, i.e., Rs. 14,30,200/-, to the assessee's total income under Section 56(2)(x)(b) of the Act, based on his ownership share, would leave the remaining balance of Rs. 20,51,300/- unassessed, which was not equitable. Given that the case of his wife had escaped scrutiny, the entire disputed amount of Rs. 34,81,500/- was deemed attributable to him. Accordingly, he held that



the Assessing Officer was justified in adding the sum of Rs. 34,81,500/- to the total income u/s 56(2)(x)(b) of the Act which was confirmed.

5. Before us, it is submitted that the assessee jointly purchased a property along with his wife, who was the first named owner in the registered sale deed. The sale consideration was duly paid and recorded by both the owners. The assessee had filed all the submission with the AO during the assessment proceeding u/s 147, However, he was not satisfied with submission and also invoked Section 50C of the Act and adopted the Stamp Duty Valuation as the deemed sale consideration, which was higher than the actual consideration. The order was passed rejecting the submissions and added Rs. 34,81,500/- as Income from Other Sources, despite the fact that the assessee's share in the property was only 41.08%.

5.1 It was further submitted that the Stamp Duty value is generally decided by the stamp valuation authority after presuming the fact that, Occupation certificate (OC) and other necessary amenities are available in the area of property situated. However, in his case, said builder did not obtain OC and also other basic amenities were not available at the time of purchase of property and even till date, resultantly fair market value of the property was lower in comparison to



stamp duty value. He also requested to the AO to appoint the Government Valuer to get the right fair market value of the said property u/s 50C(2) of the Act. However, the Id. CIT (Appeal) did not consider the request which was not justified. In this connection, reliance has been placed on the decision in the case of Sunil Kumar Agarwal vs. CIT (2015) 372 ITR 83 (Cal) wherein it was held that if the stamp duty valuation is higher than the consideration received, the AO must refer the valuation to the DVO even if there is no request by the assessee. In the case of Amarshiv Construction Pvt. Ltd. vs. DCIT ITAT Ahmedabad held that reference to DVO was mandatory for invoking Section 50C(2). Similar was the decision in Hari Om Garg vs. CIT ITAT Agra.

5.2 It was further submitted that the first owner of said property was Manju Devi Reengusia as mentioned in registered sale deed. The details of payment and ratio of property is as under;

Name of Party	Date of Payment	Total Payment	Amount paid	Ratio
Manju Devi Reengusia	16.08.2017	3500000	3535354	58.92 %
TDS deducted by Manju Devi Reengusia	-	35354		
Shyam sunder Reengusia Token Money	10.08.2017	200001		
Shyam sunder Reengusia	16.08.2017	2240001	2464648	41.08%
TDS deducted by Shyam sunder B Reengusia	-	24646	-	-
Total		6000002	6000002	100%



5.3 Despite the request and supporting documents, the CIT(A) failed to refer the matter to the Valuation Officer and confirmed the addition, attributing the entire deemed capital gain to the assessee, ignoring joint ownership and dismissed the appeal and upheld the addition of the entire amount of Rs. 34,81,500/- to his income, stating that since the wife's case had "escaped scrutiny", the entire disputed amount was attributable to the assessee. The assessee also contended that the he was the owner of said property is only 41.08% and AO as well as CIT (Appeal) both added 100% difference amounts of Rs. 34,81,500/- instead of 41.08% of Rs. 34,81,500 i.e. Rs. 14,30,200/-. Hence this was against the natural justice. It was also submitted that entire difference could not be added in his hand. Reliance was placed on Arvind kumar Jagjivandas Thakkar vs. ITO ITAT Ahmedabad.

6. The ld.DR on the other hand relied on the orders of the authorities below.

7. We have carefully considered the factual matrix and also the contentions of the assessee. It is not disputed that the difference of Rs. 34,81,500/- came within the purview of section 56(vii)(b) of the Act. However, it is noticed firstly that request of the assessee to both the authorities for referring the valuation issue to the Departmental



Valuation officer as per specific provisions of the Act was not heeded for inexplicable reasons. They were also not justified in making the addition in the hand of the assessee alone ignoring the fact that the property in question was jointly held by him with his wife having specific shares. Merely for the fact that no action was taken by the Department in the case of his wife for taxing the difference to the extent of her share, there could be no justification to add the entire difference in hands of the assessee any stretch of imagination.

7.1 The provisions of section 50C sub-section (2) of the Act provides that where the assessee claims before any AO that the value adopted or assessed (or assessable) by the Stamp Valuation Authority under sub-section (1) exceeds the Fair Market Value of the property as on the date of transfer, the AO may refer the valuation of capital asset to the Valuation Officer. The assessee made a specific request to the first appellate authority in this regard. However, we find considerable force in the alternative contention of the assessee that, once the valuation adopted by the stamp valuation authority was specifically disputed and a valuation report had been furnished, the AO ought to have referred the matter to the Departmental Valuation Officer before determining the taxable difference. Accordingly, the order of the Id.CIT(A) is set aside



and we deem it appropriate to restore the matter to the file of the AO with a direction to consider the assessee's submission that the valuation be ascertained by referring the matter to the DVO. Needless to say, the assessee shall be afforded a reasonable opportunity of being heard. Thus, the alternative ground no.2 relating to reference to the DVO is therefore, allowed for statistical purposes. Rest of the grounds being academic need not be adjudicated and are left open.

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

Order pronounced in the open court on **31/08/2026.**

Sd/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Sd/-

(PRABHASH SHANKAR)
ACCOUNTANT MEMBER

Place: मुंबई/Mumbai
दिनांक /Date 31.08.2026
Lubhna Shaikh / Steno

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT



4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench, Mumbai.

