आयकर अपीलीय अधिकरण, बेंगलुरू पीठें, बेंगलुरू
INCOME TAX APPELLATE TRIBUNAL,
BANGALORE BENCHES, BANGALORE

BENCH: A

BEFORE SHRI BALAKRISHNAN S, ACCOUNTANT MEMBER

AND

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA 1806/BANG/2026 (निर्धारण वर्ष/Assessment Year: **2020-21**)		
DATTATREYA GHOSH A1201 KOLTE PATILRAAGA, SY. NO. 33, BIDARAHALLI, BHAVAPURA, BANDIKODIGEHALLI, BENGALURU-562149, KARNATAKA	**Vs.**	**ITO WARD-2(1)(3), BENGALURU** BMTC BUILDING KORAMANGALA BENGALURU-560095, KARNATAKA
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee**:**		**AGMPG8181E**
अपीलार्थी द्वारा/Appellant represented by:		**Shri Harsha KM CA**
प्रत्यर्थी द्वारा/Respondent represented by:		**Sri. Shashidhara S Shet JCIT**

सुनवाई की तारीख / Date of conclusion of hearing:	**20-July-2026**
घोषणा की तारीख / Date of pronouncement:	**05-Oct-2026**

आदेश / ORDER

PER SANDEEP SINGH KARHAIL, JUDICIAL MEMBER:

The assessee has filed the present appeal against the impugned order dated 12/03/2026, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, ["*learned CIT(A)*"], for the assessment year 2020-21.

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2. In this appeal, the assessee has raised the following grounds: -

1. Ld. Commissioner of Income Tax Appeals erred in law and on facts in confirming the assessment order dated 25.11.2024 passed in the Appellant s case for Assessment Year 2020 21 us 147 r.w.s 144B of the Income Tax Act,1961.

2. The Ld. CIT A has erred in law and on facts in ignoring the facts submitted by the Appellant that there was no transfer of immovable property between the QUEST Cooperative Housing Society Limited herein after referred to as QUEST Assignor Housing Society and the Appellant.

3. The Ld. CIT A has erred in law and on facts in understanding the facts of the case and considering the deed of assignment as transfer within the definition of section 45 and thereby confirming the Assessing officer action of invoking section 56 2 x b of Income Tax Act.

4. The Ld. CIT A has failed to understand the facts that the Appellant being a lawful member of the Housing Society, which was primarily established on Co operative basis, has only received the allotment of a house by a co operative housing society to the Appellant in compliance with its by laws.

5. The Ld. CIT A has erred in understanding the fact that the Assignor i.e., Housing Society is created under the principle of mutuality and the Appellant has contributed towards his share of cost of plot and construction cost of the residential flat bearing Flat No. A1 on the 1st Floor of the building at premises no. 04 0202 Plot No. CE 1 C 61, New Town, Kolkata hereinafter referred to as residential flat allotted to him and there is no transfer of residential flat took place by way of executing the Deed of Conveyance Assignment on 17.09.2019.

6. The Ld. CIT A was completely wrong in ignoring the submissions and supporting documents provided during the proceedings and coming to conclusion that the Appellant has paid consideration towards purchase of property whereas the Appellant being Bonafide member in the Housing Society and having contributed to the construction of residential flat as per the bye laws of the Society has only executed the Deed of conveyance

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Assignment for the purpose of revenue records and to confirm the right to occupy and to hold the residential flat allotted to him.

7. The Ld. CIT A was wrong in not appreciating the fact that as per Section 92 of the West Bengal Co operative Societies Act, 2006, the allotment of a house OR plot by a co operative housing society to its member in compliance with its bye laws is not a transfer of property but a confirmation of right to occupy and hold the property by the member.

8. The Ld. CIT A was failed to understand that the Appellant was already holding an interest in the residential flat through his membership in the Society and the Deed of conveyance Assignment is executed for the purpose of revenue records only.

9. The Ld. CIT A has erred in presuming that the difference between the market price of the residential flat and the amount contributed of Rs. 37,60,121 could have been paid by cash to the seller to cover up the undisclosed income of the purchaser and thus without applying his mind and has confirmed invoking provisions us 56 2 x b of the Act.

10. The Ld. CIT A erred in law and on facts in passing order without dealing with the issues raised in the appeal thus violating the principles of natural justice.

11. Without prejudice to the above grounds, the said residential flat has been handed over to the Appellant on 15.12.2017, i.e., relevant to AY 2018 19 and issued possession letter of the property by the Housing Society and therefore treating the difference between the market price of the residential flat and the amount contributed of Rs. 37,60,121 for the AY 2020 21 is incorrect. Any other ground to be raised with the leave of the Honorable Tribunal.

3. The solitary grievance of the assessee is against the addition made under section 56(2)(x) of the Act in respect of residential flat purchased by the assessee.

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4. The brief facts of the case pertaining to this issue, as emanating from the record, are: The assessee is an individual and, for the year under consideration, filed his return of income on 08/09/2020, declaring a total income of ₹ 5,21,920. Based on information received under the e-Verification Scheme, 2021, that the assessee purchased immovable property for ₹ 22,00,879, proceedings under section 148A of the Act were initiated. After considering the submissions of the assessee, notice under section 148 of the Act was issued on 29/03/2024. In response to the said notice, the assessee filed his return of income on 01/05/2024, admitting total income of ₹ 5,21,920. In response to the statutory notices, the assessee submitted that he had invested a total sum of ₹ 22,00,879 towards construction of a flat purchased from QUEST Cooperative Housing Society, Kolkata, and there was no additional investment of ₹ 37,60,121 as stated in the statutory notice. It was further submitted that no undisclosed investment or income has escaped assessment in the financial year 2019-20. The assessee submitted that the aforementioned Housing Society allotted him one flat on the 1st floor, as per the allotment letter received from the West Bengal Housing Board. In support of its contention, the assessee submitted the copy of the allotment letter, conveyance deed and the share certificate of the flat, evidencing that the plot value of the flat was ₹ 1,08,000. The assessee also furnished the cost of construction breakup details and its source.

5. The Assessing Officer ("*AO*"), vide order dated 25/11/2024 passed under section 147 read with section 144B of the Act, disagreed with the

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submissions of the assessee and held that as per the conveyance deed, the market value of the flat is ₹ 59,61,000 and since the assessee has only paid an amount of ₹ 22,00,879, the differential amount of ₹ 37,60,121 is taxable in the hands of the assessee under section 56(2)(x)(b) of the Act.

6. The learned CIT(A), vide impugned order, upheld the initiation of reassessment proceedings under section 148 of the Act. Further, the learned CIT(A) held that as per the provisions of section 56(2)(x)(b) of the Act, there is a difference of ₹ 37,60,121 in the amount of stamp duty value of the property purchased by the assessee and the purchase consideration paid by the assessee as per the agreement, which is not acceptable. The learned CIT(A) held that many times, the purchase price is shown at a lesser value than the stamp duty value, as part of the price is paid in cash to the seller to cover up the undisclosed income of the purchaser, and therefore, in order to avoid the loss of revenue in such activities, section 56(2)(x) was inserted in the statute. Accordingly, the addition made by the AO regarding the difference in consideration between the amount paid for the purchase of property and the stamp duty value amounting to ₹ 37,60,121 under section 56(2)(x)(b) of the Act was upheld by the learned CIT(A). Being aggrieved, the assessee is in appeal before us.

7. During the hearing, the learned Authorised Representative ("*learned AR*"), reiterating the submissions made before the Revenue authorities, submitted that the assessee was allotted one flat on the 1st floor by QUEST Cooperative Housing Society, which is registered by the Office of the Joint

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Registrar of Co-Operative Societies, Government of West Bengal. The learned AR submitted that, as per the bye-laws of the Housing Society, every member shall contribute such sum as may be deemed necessary by the Board for the purchase of the land and allotment of a plot and/or for the construction of a house for allotment to the members by the Housing Society. The learned AR submitted that the Housing Society had 8 members and on the plot of land allotted by the West Bengal Housing Board, it constructed 8 flats, out of which one flat on the 1st floor was allotted to the assessee vide allotment letter dated 12/09/2012. It was further submitted that after completion of the construction, the possession of the flat was handed over to the assessee on 15/12/2017. Thus, the learned AR submitted that the assessee received the property in the financial year 2017-18 and that only the deed of conveyance was registered in the year under consideration. It was also submitted that the assessee paid the entire consideration for the flat by February 2018. Therefore, the learned AR submitted that the provisions of section 56(2)(x)(b) of the Act have no applicability in the year under consideration.

8. On the other hand, the learned Departmental Representative ("*learned DR*") vehemently relied upon the order passed by the Revenue authorities.

9. We have considered the submissions of both sides and perused the material available on record.

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10. Before proceeding further, it is relevant to analyse the provisions of section 56(2)(x)(b) of the Act, which are relevant for the adjudication of the issue at hand. Section 56(2)(x)(b) of the Act reads as follows: -

> *"(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the following incomes, shall be chargeable to income-tax under the head "Income from other sources", namely :—*
>
> *……..*
> *(x) where any person receives, in any previous year, from any person or persons on or after the 1st day of April, 2017,—*
>
> *(b) any immovable property,—*
>
> *(A) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;*
>
> *(B) for a consideration, the stamp duty value of such property as exceeds such consideration, if the amount of such excess is more than the higher of the following amounts, namely:—*
>
> *(i) the amount of fifty thousand rupees; and*
> *(ii) the amount equal to five per cent of the consideration:"*

11. Therefore, as per the provisions of section 56(2)(x)(b) of the Act, where any person receives any immovable property from any person or persons on or after 01.04.2017 either without consideration or for consideration, the stamp duty value of such property exceeding such consideration shall be considered as its income from other sources, if the amount of such excess is more than the amount mentioned in the section.

12. The primary contention of the assessee is that no addition can be made under section 56(2)(x)(b) of the Act in the year under consideration, as he received the immovable property/flat in the financial year 2017-18 and only the deed of conveyance was registered in the year under

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consideration. On the other hand, as per the Revenue, since the deed of conveyance was registered in the year under consideration and the stamp duty value of the property was more than the consideration paid by the assessee, the differential amount is taxable under section 56(2)(x)(b) of the Act.

13. From the documents placed on record, we find that the assessee became a member of QUEST Cooperative Housing Society, Kolkata in the year 2012. On 12/09/2012, the Housing Society issued a letter allotting Flat No. A1 on the 1st floor and car parking on the ground floor in the building proposed to be constructed by the Housing Society on the land sold by the West Bengal Housing Board to the Housing Society. We find that from 05/11/2012 to 06/02/2018, the assessee paid ₹ 22,00,879 in various instalments towards construction of the flat. The assessee has placed on record its bank statement in support of this contention. We find that on 08/12/2017 the New Town Kolkata Development Authority granted an occupancy certificate to the Housing Society after finding that the building is fit for occupation. Thereafter, on 15/12/2017, the Housing Society issued a possession letter in respect of Flat No.A1 on the 1st floor and a car parking space on the ground floor to the assessee. On perusal of the possession letter dated 15/12/2017, placed at page 73 of the paper book, we find that the Housing Society intimated the assessee that the property is ready for possession and, accordingly, handed it over to the assessee on the same date. As per the assessee, the Statutory Auditor, Directorate of Co-Operative Audit, Government of West Bengal, conducted a statutory audit

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of the Housing Society to determine the total cost of constructing 8 apartments, including common areas and facilities. It is submitted that thereafter, the deed of assignment/conveyance was executed on 17/09/2019 between the Housing Society and the assessee only to confirm and maintain proper records regarding the property, while the transfer of the flat had already taken place in 2017. It is pertinent to note that no material contrary to the documents furnished by the assessee has been brought on record.

14. Therefore, from the material placed on record, we find merit in the submissions of the assessee that the immovable property/flat along with parking space was already received by the assessee in the year 2017 vide possession letter dated 15/12/2017, whereby the possession of the flat along with the parking space was handed over to the assessee. Thus, we agree with the submissions of the assessee that, if at all, only in the financial year 2017-18 can the provisions of section 56(2)(x) of the Act be applied in the present case, and the same has no applicability in the year under consideration, as no immovable property was received by the assessee in the year under consideration and only the same was registered in this year. This fact is further substantiated by the payments made by the assessee towards construction of the flat, which were completed by 06/02/2018. Therefore, we are of the considered view that the provisions of section 56(2)(x) of the Act have no applicability for making the addition in the year under consideration in the peculiar facts of the present case. Thus, the impugned addition made under section 56(2)(x) of the Act is deleted.

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15. In the result, the appeal by the assessee is allowed.

Order pronounced in the open court on 05-Oct-2026.

Sd/-	**Sd/-**
(BALAKRISHNAN S)	**(SANDEEP SINGH KARHAIL)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Bangalore,

Dated, the 05-Oct-2026

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Copy to:

1	**DATTATREYA GHOSH, A1201 KOLTE PATILRAAGA, SY. NO. 33, BIDARAHALLI, BHAVAPURA, BANDIKODIGEHALLI, BENGALURU-562149, KARNATAKA**
2	**ITO WARD-2(1)(3), BENGALURU, BMTC BUILDING KORAMANGALA, BENGALURU-560095, KARNATAKA**
3	THE PCIT / CIT,
4	THE D.R., ITAT, BANGALORE BENCH
5	GUARD FILE

BY ORDER

ASSISTANT REGISTRAR
I.T.A.T., BANGALORE

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