



**5TH THE CHAMBER OF TAX CONSULTANTS
NATIONAL ONLINE MOOT COURT COMPETITION
5TH AND 18TH JUNE, 2022**

MOOT PROBLEM

1. Raj is an individual employed with an MNC and earning salary income. In September 2019, Raj got engaged to Anita. Anita's paternal uncle, Ramesh, who lived in United States of America (US), was very happy knowing about Anita's engagement. But Ramesh could not fly down to India in November 2019 for Anita's marriage due to his work commitments. During the wedding week, the newly wedded couple received a letter from Ramesh, wherein Ramesh expressed his happiness on the wedding occasion and stated that out of love and affection for the couple, he wanted to gift a land parcel situated near Pune which he owned to Raj so that the couple could make their second home there.
2. Ramesh came to India in October 2020 and executed and registered a gift deed for the land parcel in favour of Raj. The said land parcel was a rural agricultural land as per section 2(14)(iii) of the Income-tax Act, 1961 (the Act) as it was situated beyond 25 kilometres from the municipal limits. Value of the land as per the stamp valuation authority was Rs.40,00,000/-.
3. Raj filed his return of income for the assessment year 2021-22 declaring income from salary of Rs.10,00,000/- and paid the applicable taxes.
4. On 10th June 2021, Raj received a notice under section 143(2) of the Act from the National Faceless Assessment Centre (hereinafter referred to as 'the Assessing Officer')

stating that the income-tax return filed by him for the assessment year 2021-22 was selected for scrutiny on account of a specific information pointing tax evasion received from other agency.

5. On 15th October 2021, notice under section 142(1) of the Act was issued by the Assessing Officer asking Raj to submit the following details / documents:
 - (i) Details of immovable property purchased during the year;
 - (ii) Copy of purchase agreement or conveyance deed;
 - (iii) Source of fund for purchasing immovable property
 - (iv) Value of the property as per stamp valuation authority

6. In response to the said notice dated 15th October 2021, Raj filed a letter dated 25th October 2021 making the following submissions:
 - (i) During the relevant previous year, Raj had received a land parcel as gift from Ramesh. Otherwise, he did not purchase any immovable property.
 - (ii) He also uploaded scanned copy of Registered Gift deed
 - (iii) The land was received as gift and not from any source of funds belonging to Raj
 - (iv) Value as per stamp valuation authority is Rs.40,00,000/-. However, the fair market value of the property was Rs.25,00,000/- since the boundaries of the land were illegally encroached by the nearby locals and the matter is pending for adjudication before the Hon'ble High Court.

7. Thereafter, the Assessing Officer issued a show cause notice dated 2nd December 2021, containing draft assessment order that he proposed to pass. In the draft assessment order, it was stated that since Raj had received gift from a person other than a relative, value of the land parcel is to be considered as Raj's income chargeable to tax under the head, 'Income from Other Sources'. The Assessing Officer proposed to make an addition of Rs.25,00,000/- under section 56(2)(x) of the Act.

8. In response to the said show cause notice, Raj submitted a letter dated 12th December 2021 wherein he stated that –

- (i) He had received the land parcel as gift on the occasion of his marriage and the same falls in the exceptions for attracting provisions of section 56(2)(x) of the Act;
 - (ii) The land was an agricultural land and not a capital asset as defined in section 2(14) of the Act and thus does not attract the provisions of section 56(2)(x) of the Act;
 - (iii) He wanted an opportunity of personal hearing through video conferencing to explain the facts involved in his case and such an opportunity be granted before passing any adverse order against him.
9. The Assessing Officer passed an assessment order dated 18th December 2021 under section 143(3) of the Act making an addition of Rs.40,00,000/- under section 56(2)(x) of the Act, without referring to the submissions made by Raj in his letter dated 12th December 2021 and without giving an opportunity of personal hearing.
10. Raj, in his capacity as agent of Ramesh under section 160 of the Act, also received a notice from the income tax department that Ramesh ought to have deposited TDS under section 194-IA of the Act on Rs.40,00,000/- before conveying the property to Raj. As this was not done, Raj was asked to show cause why he should not be taxed in respect of Rs. 40,00,000.
11. Aggrieved by the assessment order passed under section 143(3) of the Act by the Assessing Officer, Raj filed a writ petition before the High Court praying for quashing of the entire assessment proceedings including the said assessment order dated 18th December 2021 on the following grounds:
- (i) The assessment order passed by the Assessing Officer is a non est order as per section 144B(9) of the Act since it was not passed in conformity with the requirements of the Faceless Assessment Scheme, 2019, forming part of section 144B of the Act.

- (ii) The assessment proceeding was concluded without giving an opportunity of personal hearing to the assessee and thus was in breach of the principles of natural justice.
- (iii) The land parcel was received as gift on the occasion of his marriage, which falls in the exceptions for attracting provisions of section 56(2)(x) of the Act;
- (iv) The land was an agricultural land and not a capital asset as defined in section 2(14) of the Act and thus does not attract the provisions of section 56(2)(x) of the Act
- (v) In any case, even if the gift was to be considered as the assessee's income, the fair market value of Rs.25,00,000/- should be considered for purpose of addition under section 56(2)(x) of the Act, instead of Rs.40,00,000/-.

All the above grounds are without prejudice to each other.

12. Upon hearing the brief facts of the case on the first date of hearing and considering Revenue's objections against maintainability of the writ petition, the Court adjourned the matter to another date with a direction that on the next date, the matter would be heard for its admissibility as well as for final disposal (upon admission).