

Mr. Joy Bajaj v. The Assistant Commissioner of Income Tax, Ward 4(2), Jaipur

D.B. Income Tax Appeal No. 88/2020

2025:RJ-JP:11201-DB | D.B. Income Tax Appeal No. 88/2020 | 2025-03-11

Scope of deeming fiction under section 56(2)(vii)(b) for AY 2015-16: where ITAT deleted the Rs. 53,50,000 addition for delayed cheque encashment in a disputed property purchase, ITAT could not invent a double deeming fiction directing the AO to tax notional interest on delayed payment of purchase consideration.

Income-tax Act, 1961: sections 14, 56(1), 56(2)(vii)(b), 143(3) and 260A

High Court of Judicature for Rajasthan | 2-judge bench (Division Bench) | Avneesh Jhingan, J. | Maneesh Sharma, J.

Assessment years: 2015-16

Reportable judgment on strict construction of section 56(2)(vii)(b) deeming fiction

Holds that once a transaction is neither without consideration nor for a consideration below stamp duty value, section 56(2)(vii)(b) cannot be stretched to tax notional interest on delayed encashment of purchase cheques during a civil suit.

01 FACTS OF THE CASE

In AY 2015-16, the appellant purchased two offices vide registered sale deeds dated 16.10.2014 for Rs. 28,00,000 and Rs. 26,50,000 (total Rs. 54,50,000) by issuing cheques. Due to a civil dispute and suit filed by the seller in 2015, only Rs. 1,00,000 was initially encashed, and upon settlement in 2017 fresh cheques of Rs. 53,50,000 were issued and encashed. In scrutiny assessment for AY 2015-16, the AO added Rs. 53,50,000 under section 56(2)(vii). By order dated 22.02.2019/22.03.2019, the ITAT Jaipur deleted the Rs. 53,50,000 addition but directed the AO to redetermine purchase consideration by notionally applying an interest factor for the period of delayed payment under section 56(2)(vii)(b).

Source: [Paragraphs 1-3; PDF pp. 1-2](#)

02 DISCUSSION BY THE HON'BLE COURT

Applying CIT v. Mother India Refrigeration Industries (P.) Ltd. ((1985) 155 ITR 711 (SC)), Bengal Immunity Co. Ltd. v. State of Bihar, and CIT v. Amarchand N. Shroff ((1963) 48 ITR 59 (SC)), the Division Bench held that a statutory deeming fiction must be confined strictly to the purpose for which it is created. Section 56(2)(vii)(b) applies only where immovable property is received without consideration or for a consideration less than its stamp duty value. The ITAT's direction impermissibly created two uncoded deeming fictions: first, that notional interest was earned by the buyer due to delayed payment of consideration, and second, that such notional interest was chargeable to tax under section 56(2)(vii)(b).

Source: [Paragraphs 6-16; PDF pp. 3-7](#)

03 JUDICIAL DECISION

Answered the substantial question of law in favour of the assessee and allowed D.B. Income Tax Appeal No. 88/2020.

Source: [Paragraphs 17-18; PDF p. 7](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee - Substantial question of law answered in favour of the assessee; appeal allowed and ITAT direction to tax notional interest under section 56(2)(vii)(b) set aside.

Source: [Paragraphs 17-18; PDF p. 7](#)

05 AKHB REVIEW POINT

AKHB analysis: neither section 56(2)(vii)(b) nor its successor section 56(2)(x)(b) authorizes taxing notional interest on delayed payment of agreed sale consideration where the deed consideration equals or exceeds stamp-duty valuation.

Source: [Paragraphs 6-16; PDF pp. 3-7](#)

SOURCE & VERIFICATION

[High Court of Judicature for Rajasthan official judgment PDF - AKHB Cloud Repository \(20250311_RJHC020665732020.pdf\)](#)

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STATUTORY SCOPE

Applies section 56(2)(vii)(b) of the Income-tax Act, 1961 for AY 2015-16. Income-tax Act, 2025 equivalence is not verified.

LATER TREATMENT

Source checked 2026-10-18. Full primary judgment PDF read page-by-page and verified against the AKHB Google Drive repository. Comprehensive subsequent judicial treatment has not been independently verified.

AI DISCLOSURE

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