

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad**

**Before Shri S.S. Godara, Judicial Member
AND
Shri Laxmi Prasad Sahu, Accountant Member**

Sl. No.	ITA No & Assessment Year	Appellant / Assessee	Respondent
1.	232/Hyd/2021 2014-15	Smt. Vijaya Lakshmi Mittapalli, Khammam. PAN : AGNPM3733D	ITO, Ward-1, Khammam.
2.	233/Hyd/2021 2014-15	Naveen Mittapalli, Khammam. PAN: AAUPM0495M	-do-
3.	234/Hyd/2021 2014-15	Murali Krishna Mittapalli, Khammam. PAN: AAUPM0484E	-do-
4.	235/Hyd/2021 2014-15	Ramesh Mittapalli, Khammam. PAN: AEYPM9129C	-do-

Appellant By : Shri M.V. Anil Kumar.

Respondent By : Shri Rajendra Kumar.

Date of Hearing : 14.03.2022

Date of Pronouncement : 17.03.2022

ORDER

Per S. S. Godara, J.M.

These four assessee's appeals for A.Ys. 2014-15 arise against the Principal Commissioner of Income Tax, Hyderabad – 4's as many orders dt. 30.03.2021 in DIN and order No.ITBA/REV/F/REV5/2020-21/ 1031950939(1), 1031950070(1), 1031953204(1) and 10391952435(1) involving proceedings u/s 263 of the Income Tax Act 1961 [in short, 'the Act']; respectively.

Heard all four assessee's as well as the department. Case files perused.

2. All these assessee's appeals are barred by limitation by 18 days. They have moved condonation applications explaining reasons thereof. We have heard both the parties on this preliminary issue. Having regard to the reasons given in the petitions, we condone the delay and admit the appeals for hearing.

3. It emerges at the outset that the CIT(A)'s identical impugned revision directions terming the corresponding reassessments as erroneous ones causing prejudice to the interest of the Revenue read as under :

5.3 In the instant case, the assessee though having earned capital gains during the year under consideration has not filed his return of income for the A.Y 2014-15.

The Assessing Officer issued notice u/s 148 of the IT Act on 04.08.2017 and on several occasions issued notices u/s 142(1) of IT Act calling for return of income. The ROI was filed only on 28.12.2018, by the assessee. During assessment proceedings u/s 143(3) r.w.s 147 of the IT Act, the assessee except submitting computation statement for capital gains, no supporting documents were furnished for claims of cost of acquisition and cost of improvement. The Assessing Officer has decided the issues on presumption basis without verifying the actual documents which caused loss to the revenue. Hence, the AO failed in his basic duty to examine these aspects while completing scrutiny assessment. The Assessing Officer has not properly followed the provisions of I T Act, before completion of the assessment. Thus, there is an error in the assessment order framed by the AO which is prejudicial to the interest of the revenue and deserves to be set aside and the Pr. Commissioner is empowered to revise such assessment by invoking the provisions of section 263 of the I T Act. It is pertinent to mention here that during revisionary proceedings also, the assessee except challenging the issue of invoking provisions of section 263 of IT Act, not made any attempt to submit the relevant documents / evidences in support of his claims made in the return of income filed in response to the notice issued u/s 148 of the IT Act.

6. Now coming to merits of the case, the assessee along with her sons sold an immovable property at Sy No. 177/E, Part of Hno. 5-94 and 5-95 situated at Peddathanda G.P, Yedulapuram Revenue, Khammam (rural) to the extent of 11128.60 sq yds to Smt Banoth Jyothi for a consideration of Rs. 1.61 Cr. On verification of the documents No. 7001/2013, 7002/2013 & 7003/2013 dated 14-11-2013, which were registered at SRO, Kusumanchi, it was noticed that the stamp duty was paid on the market value of Rs. 4,39,23,056/- as under:

Sno	Doc No. & Date	Description of the property	Sale consideration	Market Value as per SRO
1	7001/2013 dt 14-11-2013	Out of sy no. 177/E of Edulapuram village, Peddathanda to the extent of 3848 sq.yds	Rs. 51,00,000/-	Rs. 1,15,44,000/-
2	7002/2013 dt 14-11-2013	Out of sy no. 177/E of Edulapuram village,	Rs. 20,00,000/-	Rs. 60,31,643/-

		Peddathanda to the extent of 1366 sq.yds		
		Out of sy no. 177/E of Edulapuram village. Peddathanda to the extent of 3848 sq.yds	Rs. 99,00,000 -	Rs. 2,63,47,413/-
			Rs. 1,61,00,000 -	Rs. 4,39,23,056/-

6.1 The Assessing Officer observed that the entire transaction was paid in cash and hence provisions of section 50C as well as section 56(2)(vii)(b) of the IT Act is attracted in this case. During the course of scrutiny proceedings, the matter was referred to the Addl. Commissioner of Income Tax, Khammam Range seeking directions u/s 144A of the IT Act. The Addl. CIT, Khammam vide his letter dated 05-11-2018 directed the AO "to examine the contention of the assessee in the valuation of the cost of land fixed by the Registration department by obtaining the valuation report from a department approved valuer and ascertain the true value of the immovable property". The Assessing Officer basing on the valuation report submitted by the assessee adopted the market value of the land as Rs. 2,03,65,854/- and computed the Capital Gains whereas the Market Value of the property as per SRO valuation was Rs. 4.39,23,056/-. It is observed that the AO had not referred the property for valuation rather he accepted the valuation report submitted by the assessee from a Registered valuer thereby not adhering to the directions given by the Addl. CIT in this regard. Further, the AO had not called for the HDFC overdraft account of the assessee to verify how the payments were effected in that account. As per the sale deeds it is mentioned that the entire sale consideration was paid as cash. As per the agreement dated 01-04-2011, the assessee had received Rs. 20,00,000/- in cash on the date of agreement. However, as per the sworn statement of Smt Banoth Jyothi (purchaser), as answer to Question No.3, it was mentioned that the entire amount of Rs. 1.61 crores was paid in the year 2011 itself to repay the bank overdraft due by the assessee. Further, as per the public auction notice issued by HDFC Bank in Annexure -VIII, it is observed that the property is being attached by bank on 13-09-2010. However, the date of agreement of sale was on 01-04-2011. By the time agreement of sale was entered the property is not in possession of the assessee. This fact is also not verified by the Assessing Officer. The Assessing Officer has not verified with respect to the payments made to the assessee's HDFC overdraft account. The no objection obtained from HDFC bank dated 01.08.2013 was

also submitted by the assessee during scrutiny proceedings. It is also observed that from the auction advertisement, the Bank fixed the reserve price at Rs. 2,65,00,000/- and EMD of Rs. 26,50,000/- (i.e. 10% of reserve price) shall be paid along with tender document. The AO has not made proper enquiries in this regard. The Assessing Officer has not obtained the successful bidding price from the Bank. Simply, he has considered consideration as per the agreement of sale entered on 01-04-2011, even though by the time the property was under attachment of Bank.

Further, the purchaser had mentioned that apart from the overdraft there were debtors with whom she had to negotiate for Registration of the land. Whether there were any payments made to such debtors by the purchaser was not verified by the Assessing Officer before adopting the Market Value of the land as Rs. 2,03,65,854/-.

7. In view of the above, the order passed u/s. 143(3) r.w.s. 147 of the Act by the Assessing Officer on 29.12.2018 is erroneous in so far as it is prejudicial to the interest of revenue. Accordingly, the issue of Capital Gains arising out of the sale transaction is set aside with a direction to re-calculate the Capital Gains after verifying the observations stated above and referring the property for valuation to the Departmental Valuation Officer. Further, the AO is directed to recalculate Capital Gains after verifying the above stated issues as per law and after affording reasonable opportunity to the assessee.

8. Thus, the assessment order u/s 143(3) of the Act, dated 29.12.2018 is set-aside for limited purpose of verification of the above discussed issues.

9. This order is passed as per extended time line given by the Gazette Notification in S.O.2033(E) issued by the Ministry of Finance on 24-06-2020.

4. Learned authorized representative invited our attention to assessee's detailed Paper Book running into 157 pages containing common sale agreement dt.01.04.2011, sale deed dt.14.11.2013, property valuation report, certificate of market value of the property(ies) on sale agreement as well as sale deed(s) as well as HDFC Bank's demand notice along with the Tribunal's order in vendee Smt. Jyothi Bhanoth's case dt. 21.01.2021 in ITA

No.265/Hyd/2019. He strongly argued that the Assessing Officer's corresponding re-assessments herein had rightly accepted the assessee's explanation for not invoking section 50C of the Act since going by the registered valuer's report as on the date of agreement as well as the date of sale deed and therefore, his identical assessment orders are neither erroneous ones nor do they cause any prejudice to interest of the Revenue as sought to be projected in the PCIT's detailed discussion. He further referred to the assessment discussion in the Assessing Officer's order(s) that he had followed the Addl.CIT's directions under section 144A directions that the registered valuer's report has to be considered. Mr. Anil Kumar lastly contended in light of the assessment findings in Paras 9.1 to 13.3 that the Assessing Officer had indeed gone for a very detailed discussion whilst partly diluting the SRO price herein from Rs.4,39,23,056/- to Rs.2,03,65,854/- as against the actual sale consideration of Rs.1,61,00,000/- in issue.

5. The Revenue has strongly supported the PCIT's foregoing detailed discussion exercising section 263 revision jurisdiction.

6. We have given our thoughtful consideration to rival pleadings and find no merit in assessee's arguments. We make it clear that there is hardly any dispute about the settled law that an assessment has to be both erroneous as well as causing prejudice to the interest of Revenue, simultaneously, before the CIT or the PCIT, as the case may be, seeks to invoke his section 263 revision jurisdiction. Case law M/s Malabar Industries Co., Vs. CIT (2000) 243 ITR 83 (SC) holds in very much unambiguous terms that it is

not each and every assessment that invites exercise of revision jurisdiction but only those in which the Assessing Officer has not taken one of two possible views or he has completed an assessment without conducting an enquiry. We also make it clear that the legislature has inserted Explanation in section 263 by the Finance Act 2015 w.e.f. 01.06.2015 to the effect that inadequate enquiry would also attract revision proceedings.

7. We now proceed to deal with the relevant factual matrix. It is an admitted fact that these assessee's had received all their consideration money in cash only in furtherance to the sale agreement dt.01.04.2011 culminating to sale deed dt.14.11.2013. There is further no quarrel that they had declared actual sale consideration of Rs.1,61,00,000/- against SRO price Rs.4,39,23,056/-. Coming to the impugned re-assessments, we note that instead of making the statutory reference u/s 50C(2) to the DVO, the Addl. CIT's directions under Section 144A as well as the assessing authority went by the registered valuer's report only. We wish to clarify that although the legislature has introduced section 50C(1) 1st and 2nd proviso for adopting the sale consideration as on the date of agreement itself as the fair market value provided the same had been paid by the approved method only, the assessee's would hardly be benefitted as the instant lis involves cash payments only. We thus hold in this factual backdrop that the PCIT has rightly exercised his revision jurisdiction on account of the lower authorities foregoing failure in making statutory reference to the DVO thereby accepting the registered

valuers report for reasons going beyond the relevant provisions in the Act.

8. Learned counsel at this stage referred to the tribunal's order in vendee's case (supra) that the learned co-ordinate bench has accepted the actual sale price as fair market value whilst dealing with section 56(2)(vii)(b) addition. We find that the said learned co-ordinate bench has rather restored the issue back to the Assessing Officer as under :

"8. We have heard the rival submissions and carefully perused the materials on record. The contention of the assessee that she has paid the sale consideration during the AY 2011-12 in a mode other than cash is not acceptable because the assessee has paid only by cash for the purchase of the property even if it was remitted in the bank account of the Vendors directly. However, the arguments of the assessee that, (1) The Hon'ble High Court of Andhra Pradesh has quashed the order of the Government for enhancing the valuation of the property and (2) The Ld. Revenue Authorities in the case of the Vendors of the assessee while invoking the provisions of section 50C of the Act has valued the property at Rs. 2,03,65,854/-, is required to be considered while deciding the case of the assessee. The order of the Hon'ble High Court in the Public Interest Litigation No. 274 of 2013 dated 23/09/2013 is reproduced herein below for reference:-

"The Court made the following:

ORDER: (Per the Hon'ble Chief Justice Sri K. J. Sengupta)

This Public Interest Litigation has been taken out to challenge Government order No. 157 dated 30/3/2013 by which the Government has empowered the Commissioner and inspector General of Registration and Stamps to implement the revised market values in urban areas, Secunderabad Cantonment area and rural areas in the State with effect from 1/4/2013.

It is the contention of the petitioners that this order has been passed without having any power of relaxation of rules. We have checked up the relevant Rules namely Andhra Pradesh Revisions of Market Value

Guidelines Rules, 1998, which is mentioned in the impugned order. Surprisingly, we found that there is no power to relax the Rules. If no power is conferred under the Rules, how the Government can relax the said Rules. Therefore, it is an arbitrary decision, if not totally non-application of mind. On that ground alone, the Writ Petition succeeds and the impugned order dated 30/03/2013 is set aside. However, liberty is given to proceed strictly in accordance with law. The Public Interest Litigation is allowed accordingly. No Costs.”

9. From the above, it appears that the order of the Government for enhancing the valuation of the property for determining the Stamp Duty while registering the sale deed, goes in favour of the assessee. If the Order of the Hon’ble High Court has held that the Order of the Government enhancing of the valuation of property for determining the Stamp Duty while registering the sale deed is erroneous then the value of the property for determining the stamp duty in the case of the assessee will remain at Rs. 800/- per sq. yd. In such circumstances, it will be erroneous on the part of the Revenue to invoke the provisions of section 56(2)(vii)(b) of the Act in the case of the assessee.

10. Therefore, in the interest of justice, we hereby remit back the matter to the file of the Ld. AO to verify whether by virtue of the order of the Hon’ble High Court, the enhancement of the valuation of the property for the purpose of registering the sale deed has been struck down by the Hon’ble High Court and if so, assess the income of the assessee without invoking the provisions of section 56(2)(vii)(b) of the Act. If found otherwise the Ld.AO shall proceed to assess the income of the assessee U/s. 56(2)(vii)(b) of the Act in the following manner.

11. In case, the order of the Government enhancing the valuation of the property is in vogue then, the finding of the Revenue in the case of the Vendor would be relevant. During the assessment proceedings of the vendor viz., Sri Mittapalli Naveen, Khammam the Ld. AO, Ward-1, Khammam for the AY 2014-15 in his order dated 29/12/2018 has extracted the report of the IT Inspector who was assigned to find the facts of the case. The relevant portion is reproduced herein below for reference:

“7. As directed by the Income Tax Officer, Ward-1, Khammam, I have visited D. No. 2-3-309, Near Sunder Talkies, Khammam on 26/09/2018 regarding the sale consideration and complete details of the assessee.

As told by Sri Mittapalli Santharam, he was the owner of a rice mill, which was situated at a Lambada area, Seventy (70) members used to work under him. As he was the only owner and there were no partners, he did not recognize the mischief done by his servants. Drought for two years further worsened the business. As the business went into loss, he was unable to repay the loans.

The land where the rice mill was located was in the middle of a Lambada Area. As told by him, the Lambada people did not provide

road for his mill which led to further arguments between him and the Lambada People. In view of all those arguments, loss in the business and notices, pressure from bank officers regarding repayment of loans, Sri Mittapalli Santharam decided to sell the land. As no one shown interest in buying the land, he sold the site to Smt. Bhanu Jyothi for Rs. 1.60 Crores which was paid in cash in several instalments. He said that he used that money for repaying the bank loans.

At present he is living along with his wife and younger son, Sri Mittapalli Naveen, who works in an insurance company. Sri Mittapalli Naveen got divorced, underwent a survey (relating to heart). The Elder son, Sri Murali Krishna, who underwent a hip joint surgery, is living in Hyderabad, the other son, Sri Ramesh absconded after filing an insolvency petition.”

12. Thereafter, the Ld. AO observed in his Order in the case of the vendor Sri Mittapalli Naveen as under: -

“8. Under the above circumstances, there appears to be a reason that the consideration amount could have been only Rs. 1.61 Crores for the following reasons:-

(a) Neither Sri Shantaram or Smt. Vijayalakshmi or any one of their children appear to be in a flourishing stage having received such excess amounts.

(b) The business closed long back and no returns are being filed.

(c) Present situation of the old people is very pathetic (As per ITI's report).

(d) The debtors and Court cases are still around them like a cob web.

(e) No assets were left except their living house which is under court litigation.

(f) Even as per the 1st Proviso to section 56(2)(vii)(b)(ii) – If the date of agreement and the date of registration are different, then the date of agreement is to be considered for the purpose of Market value.

9. Though the 1st Proviso to Section 56(2)(vii)(b)(ii) specifies that if the date of agreement and date of registration are different, then the date of agreement is to be considered for the purpose of Market value. But he 2nd Proviso to section 56(2)(vii)(b) stipulates a condition that the above said 1st Proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by any mode other than cash on or before the date of agreement for the transfer of such immovable property.

9.1. In the instant case, though the agreement was made on 01/04/2011, the sale deed was executed on 14/11/2013. The assessee could not produce any proof that any part payment of the entire consideration was paid by way of Cheque / DD / RTGS etc. Therefore, in the absence of such

proof, the assessee / AR was asked as to why the provisions of section 50C should not be applied w.r.t Section 56(2)(vii)(b)(ii). The Ld. AR argued that though the entire transaction was made in cash, the instalment payments made by the purchaser was immediately deposited in the HDFC bank against the loan account. The assessee made a claim that the payments to the bank may be considered as “transaction other than cash”. The plea of the assessee/A.R is not acceptable as the HDFC bank is a third party which is meant for only releasing the property under its possession consequent to loan repayment. Therefore, it was proposed to apply provisions of section 50C to this case and the total consideration is deemed to be the Market Value of the property which is at Rs. 4,39,23,056/-. But the assessee/AR argued that the market value of the property as on the date of agreement is much lower than the value as on the date of registration and he has not received such consideration as specified by the market value.

In certain cases, this causes a very difficult situation for the seller of the property as he is required to pay tax on extra money which he never received. Alternatively, if he wants to claim any exemption by investing in a residential house or capital gains bonds, etc., depending upon the facts of his case, he has to invest an extra amount, which he never received on sale. To come out of the difficulty one may consider recourse to relief provisions, but by the time decision in respect of relief provisions come, the assessee would have devoid of getting benefit out of it, as he would have paid the taxes. Stamp duty is generally paid by the purchaser of the property. Therefore, the purchaser is entitled to dispute higher valuation by stamp duty authorities. However, generally the purchasers do not prefer an appeal before the stamp duty authorities as compared to the purchase price involved, the amount of additional stamp duty becoming payable due to higher valuation by stamp duty authority is meagre amount which does not afford spending money and time involved in the appeal.

11. Under these circumstances, to avoid a high-pitched addition and in view of the existing ambiguity, instructions U/s. 144A of the Act were sought for from the Addl. CIT, Khammam Range vide this office letter dated 28/09/2018, for completion of the assessment.

11.1.....

11.2.....

12. The Addl. CIT, Khammam Range vide his letter in F.No.144A/ Addl. CIT/Kmm/2018-19, dated 05/11/2018 directed to examine the contention of the assessee in the valuation of the cost of land fixed by the Registration Department by obtaining the valuation report from a Department Approved Valuer and ascertain the true value of the immovable property. Accordingly, as directed by the Addl. CIT, the Valuation Report as submitted by the assessee which was obtained from the Registered Valuer for Income Tax Department” one Mr. V. Sreedhar, Vide his registration No. C-1/33/CCIT-III/XX/Reg. Val/56/03-04 is submitted before the Addl. CIT. As per the Valuation Report the land value was determined @ 1000/- per

sq. yd as against the Stamp Duty value. However, the valuer did not determine any value for the structure. The Addl. CIT, Khammam Range vide his letter in F.No.144A/Addl. CIT/Kmm/2018-19, dated 06-12-2018 directed as under:

“The valuation report submitted has been perused. In view of the above, you are directed to verify the contents of the report and adopt the valuation determined by the registered valuer based on facts and adhering to the provisions of the Income Tax Act, 1961.”

12.1. The report of the “Registered Valuer for Income Tax Department” one Mr. V. Sreedhar, Chartered Engineer (India) Membership No. M/121750/4 vide his registration No.C-1/33/CCIT-III/XX/Reg. Val/56/03-04 narrated that the land is situated at the outskirts of Khammam at about 7 Km to 8 Km and is in the vicinity of Tribal community who are manufacturing illicit liquor / arrack and certain Meat and Chicken shops also exist. Therefore, no person would be willing to take such land as the land is equipped with wastage materials and is used as dumping yard by the localities. Hence land does not yield much value as compared to other Urban Lands at Khammam and rate fixed by the Stamp Duty Authority would not applicable to this land. The detailed report of the Regd. Valuer is reproduced as under:

“V. Sreedhar,
Chartered Engineer (India)
No. M/121750/4,
Registered Wealth Tax and Income Tax Valuer,
No. C-1; 33/CCIT-III/XX/Reg. Val/56/03-04,
Approved by CHIEF Commissioner of Income Tax,
Hyderabad, A.P.

(Value has a value only if it is valued)

Valuation report on fair market value of property bearing survey No. 177/1, Edulapalem, Pedda Thanda, Khammam Rural Mandal & District jointly belonging to 1) Mittapalli Vijayalakshmi 2) Mittapalli Muralikrishna 3) Mittapalli Ramesh 4) Mittapalli Naveen.

Under instructions from owners, the property was inspected to assess fair market value as on date. The relevant particulars were collected at site and details of valuation are summarised as under:-

History: Total vacant land having an extent of 11,129.60 sq. yds was purchased on different years under registered sale deed document Nos. 144/1980; 4711/1982; 513/1992; 514/1992 and 515/1992. Subsequently after purchase, they constructed sheds and RCC roof block. All four owners want to sell entire property and entered an agreement on 1/4/2011, but same property was registered on 14/11/2013.

Location of property: - The subject property had been located outskirts about 7 km to 8 km away from Khammam town. In the vicinity Total community are living since long period. Their occupation is manufacturing their liquor / arrack shops and same is supplying various places. Meat and chicken shops also exist in addition to this, there is a huge dumping yard where all wastage materials are being dumped surrounding of this property. This will get health effect.

Open prevailing market Rate: Due to the above reasons as per local enquiries made no other communities from external area will come forward to purchase the site in this locality. As per local people opinions, the land rate varies from Rs. 200/- sq yard to Rs. 1300/- sq yard. By viewing all points into consideration, conservative rate of Rs. 1000/- per sq yard is found reasonable and same is adopted in the valuation.

SRO Rates. The sub registrar rates are increased keeping in view getting revenue to government by registering properties. The SR values are also calculated entire area compromising the all properties facing internal roads and also main road (well developed and undeveloped areas in vicinity). The stamp duty value will not be applicable to this property as mentioned above.

LAND VALUE: 11,128 sq. yards @ Rs. 1000/- sq. yard Rs. 1,11,28,600.00

(or say Rupees (one crore eleven lakhs twenty eight thousands and six hundred only)

Sd/xxx

V. Sreedhar

13. Since the case on hand is not appeared to be a case of section 50C, I do not find any uncertainty in the contention of the assessee that the stamp duty was only paid in excess as per the Land Registration Act and the actual consideration was paid as per the agreement dated 1/4/2011. Hence, there is no necessity to ascertain the Fair Market Value of the capital asset afresh by referring the same to Valuation Officer U/s. 55A of the Act. Therefore, following the directions of the Addl. CIT U/s. 144a and keeping in view of the provisions of Income Tax, the Land value as determined by the "Registered Valuer for Income Tax Department Mr. V. Sreedhar, vide his registration No.C-1/22/CCIT-III/XX/Reg. Val/56/03-04, the land value is adopted at Rs. 1000/- per sq yd and since the Valuation Report was silent about the construction cost, the web site is browsed, and it is ascertained that the rates varied from Rs. 380 to Rs. 622 between the period 2010 to 2014. Though the construction was made way back in 1930 and the structures are dilapidated ones, and the actual cost of construction has no value as on the date of transfer, yet the value of RCC is taken at Rs. 630/- per s.ft. and the value of sheds are taken at Rs. 480 per s.ft s determined by the stamp duty authority. Therefore, the probable sale consideration as directed U/s. 144A and as determined by the Registered Valuer is worked out as under:-

Document Nos. Dt.14/11/2013	Land extent (sq. yds)	Rate / Sq. yd	Built-up area (sq. fts)	Rate / sq. ft	Total Value
7001/2013	3848.00	1000	0	0	38,48,000
7002/2013	1366.00	1000	RCC-935.49 Shed – 2800.59 3736.08	630 480	(1366000+589 +359+1344283) 2,99,642
7003/2013	5914.60	1000	RCC-1365 Shed – 16132.63 17497.63	630 480	5914600 + 859950 + 7743662) 1,35,18,212
Total	11128.6		21233.71		2,03,65,854

13.1. Hence, the sale consideration is determined at Rs. 2,03,65,854/- as against the consideration of Rs. 1,61,00,000/-.....”

13. Accordingly, in the case of the Vendor the Ld. AO invoking the provisions of Section 50C of the Act computed the long-term capital gain at Rs. 11,26,261/- adopting the market value of the property as Rs. 2,03,65,854/- with respect to the sale of his property to the assessee for Rs. 1,61,00,000/-.

14. It is pertinent to mention that section 50C of the Act is a special provision introduced by the Finance Act, 2002 to deal with the unaccounted income by way of understatement of the actual sale consideration by the seller of the immovable property. In such transactions, the excess sale consideration other than what is mentioned in the sale deed are received by cash by the seller of the immovable property thereby escaping tax and generating black money. Thereafter in the Finance Act 2013, w.e.f 01-04-2014 section 56(2)(vii)(b) was introduced to discourage and wean out such transactions by the purchaser of the property as well. However, considering the facts of the case before us, it appears that no such onmoney transactions are involved in the purchase of the property. The arguments advanced by the Ld.AR recorded in para 6(viii) & 6(ix) hereinabove is also not disputed by the Revenue, but rather accepted by the Revenue after due verification in the case of the vendor Sri Mittapalli Naveen. The Revenue having considered these facts, in the case of the seller of the property, had adopted the sale consideration at Rs. 2,03,65,854/- as against the stamp duty value of the property of Rs. 4,39,23,056/- while invoking the provisions of Section 50C of the Act in the assessment Order dated 29/12/2018.

15. Therefore, it is obvious that a contrary view by the Ld.AO to adopt the stamp duty value of the property at Rs. 4,39,23,056/- in the case of the buyer (the assessee) of the property while invoking the provisions of Section 56(2)(vii)(b) of the Act is not appropriate because the Ld.AO had missed out to examine the entire facts of the case. 15. Therefore, we hereby direct the Ld.AO that, if by virtue of the Order of the Government the value of the property for the purpose of registering the sale deed has been enhanced and has not been interfered by any Judicial/Executive Authority during the relevant period, then adopt the stamp duty value of the property purchased by the assessee at Rs. 2,03,65,854/- for the purpose of assessing the income of the assessee invoking the provisions of section 56(2)(vii)(b) of the Act.

16 Accordingly the Ld.AO is directed to pass appropriate Order as per our directions mentioned in para 10 or para 15 of this Order whichever is applicable after providing the assessee with due opportunity of being heard.”

9. We therefore uphold the learned PCIT's revision directions in issue to reject the assessee's foregoing arguments challenging correctness thereof. All these four appeals ITA Nos.232 to 235/Hyd/2021 fail accordingly. We make it clear before parting that these assessee's shall be very much at liberty to raise all the factual as well as legal arguments before the Assessing Officer in consequential proceedings who shall adjudicate the same after considering the finality of the corresponding addition in vendee's case (supra) as well.

10. These assessee's appeals are dismissed in above terms. A copy of this common order be placed in their respective case files.

Order pronounced in the Open Court on 17th March, 2022.

Sd/- (LAXMI PRASAD SAHU) ACCOUNTANT MEMBER	Sd/- (S.S. GODARA) JUDICIAL MEMBER
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Hyderabad, dated 17th March, 2022.

TYNM/sps

Copy to:

S.No	Addresses
1	Smt. Vijaya Lakshmi, Mittapalli, Khammam, C/o. M. Anandam & Co., Chartered Accountants, Flat No.7A, Surya Towers, S.P. Road, Telangana – 500003.
2	Naveen Mittapalli, Khammam, C/o. M. Anandam & Co., Chartered Accountants, Flat No.7A, Surya Towers, S.P. Road, Telangana – 500003.
3	Murali Krishna Mittapalli, Khammam, C/o. M. Anandam & Co., Chartered Accountants, Flat No.7A, Surya Towers, S.P. Road, Telangana – 500003.
4	Ramesh Mittapalli, Khammam, C/o. M. Anandam & Co., Chartered Accountants, Flat No.7A, Surya Towers, S.P. Road, Telangana – 500003.
2	The Income Tax Officer, Ward- 1, Khammam.
4	The Pr.CIT, Hyderabad – 4.
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order