

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'SMC' NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA No.1024/Del/2022  
Assessment Year: 2019-20

Sh. Inder Jeet Malik, C2C-001, Ground Floor, Golf Links Residency, Sector -18B, New Delhi	<b>Vs.</b>	ADIT, Central Circle-71(1), Delhi
<b>PAN :ABBPM7758D</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Tarun Rohtagi, CA
Respondent by	Sh. Om Prakash, Sr. DR

Date of hearing	14.07.2022
Date of pronouncement	26.07.2022

**ORDER**

This is an appeal by the assessee against order dated 15.11.2021 of National Faceless Appeal Centre (NFAC), Delhi, pertaining to assessment years 2019-20.

2. Grounds raised by the assessee are as under:

1. *That on the facts and in the circumstances of the case the Learned CIT (A) has erred in facts and in law in upholding the addition of Rs.15,17,527 made under section 50C by the Assessing officer, CPC*
2. *That the Learned Assessing officer, CPC exceeded his jurisdiction in making the addition of Rs.15,17,527 under section 143 (1) (a)(ii) of the Act*

3. *That the sale consideration being less than the stamp duty cannot constitute an "incorrect claim u/s 143(l)(a)(ii)" so as to make an adjustment to the returned income .*
4. *That mere reporting requirement in the tax return that the circle rate of the property is higher than the sale consideration cannot ipso facto lead to an adjustment u/s 143(1) of the Act or addition u/s 50C .*
5. *That in any case section 50C has no application to the facts of the case.*
6. *That the Assessing officer / CIT (A) ought to have referred the matter to valuation officer as provided under Section 50C of the Act.*
7. *That in absence of any opportunity of hearing before the CPC, Bengaluru and NFAC the orders passed by the authorities are in violation of Principles of Natural Justice.*
8. *The Assessee craves leave to add, amend, alter, delete, rescind, forgo or withdraw any of the above grounds of Appeal.*

3. As could be seen from the grounds raised, the core issue relates to addition made under section 50C(1) of the Income-tax Act, 1961 (in short 'the Act') by way of an adjustment, while processing the return of income under section 143(1)(a) of the Act at Centralized Processing Center (CPC).

4. Briefly the facts are, the assessee filed its return of income for the impugned assessment year on 26<sup>th</sup> August, 2019 declaring income of Rs.18,22,220/-. While processing the return, the CPC found that as against the declared sale consideration of Rs.43 lakhs of an immovable property sold during the year, the stamp valuation authority has valued the property at Rs.58,60,000/-. Thus, the difference between the declared sale consideration and the stamp duty value was added back to the income of the assessee

in terms with section 50C(1) of the Act by making an adjustment under section 143(1)(a)(ii) of the Act. Against the intimation issued under section 143(1)(a) of the Act, the assessee preferred an appeal before learned Commissioner (Appeals). However, learned Commissioner (Appeals) upheld the addition made by the CPC.

5. I have heard the parties and perused the materials on record. The basic issue requiring consideration is, whether the addition made under section 50C(1) can fall within the ambit of adjustments provided under section 143(1)(a) of the Act. It is noticed, the following adjustments can be made while processing the return under section 143(1) of the Act:

**“Assessment.**

**143.** (1) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, such return shall be processed in the following manner, namely:—

- (a) the total income or loss shall be computed after making the following adjustments, namely:—
- (i) any arithmetical error in the return;
  - (ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;
  - (iii) disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139;
  - (iv) disallowance of expenditure <sup>68</sup>[or increase in income] indicated in the audit report but not taken into account in computing the total income in the return;
  - (v) disallowance of deduction claimed under <sup>69</sup>[section 10AA or under any of the provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes", if] the return is furnished beyond the due date specified under sub-section (1) of section 139;
- or

*(vi) addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return:”*

6. No doubt, in the present case adjustment has been made under sub-clause (ii) to section 143(1)(a). The expression “incorrect claim apparent from any information in the return” has been explained under Explanation to section 143(1)(a) of the Act and reads as under:

*“Explanation.—For the purposes of this sub-section,—*

*(a) "an incorrect claim apparent from any information in the return" shall mean a claim, on the basis of an entry, in the return,—*

- (i) of an item, which is inconsistent with another entry of the same or some other item in such return;*
- (ii) in respect of which the information required to be furnished under this Act to substantiate such entry has not been so furnished; or*
- (iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;*

7. On a conjoint reading of section 143(1)(a)(ii) along with Explanation it becomes very much clear that the addition under section 50C(1) cannot be in the nature of incorrect claim as provided in Explanation to section 143(1)(a)(ii) of the Act. This is so because, section 50C has to be read as a whole and cannot be restricted to sub-section (1) alone. It is fairly well settled, a deeming provision has to be taken to its logical end. Undoubtedly, section 50C is a deeming provision. Though, sub-section (1) of section 50C

provides for substituting the stamp duty value as deemed sale consideration in place of the declared sale consideration, however, sub-section (2) carves out an exception by providing that if the assessee objects to the stamp duty value, the valuation has to be referred to the Department Valuation Officer (DVO) and in case the value determined by the DVO is lower than the stamp duty value, the value determined by DVO has to be considered for computing capital gain in terms with sub-section (3) of section 50C. Therefore, sub-section (1) to section 50C cannot be considered in isolation. By making an adjustment of the nature contemplated under sub-section (1) to section 50C, that too, by CPC, the Department takes away a valuable statutory right given to the assessee to object to the value determined by stamp valuation authority.

8. Therefore, such type of adjustment, in my considered opinion, cannot be made under section 143(1)(a) of the Act. This is so because, at the stage of processing of return under section 143(1)(a), if such an adjustment is made, the assessee does not get an opportunity to object, as per section 50C(2) of the Act. More so, when conditions of the 1<sup>st</sup> and 2<sup>nd</sup> proviso to section 143(1)(a) are not complied. Therefore, I hold that the addition made by CPC

under section 50C(1) of the Act by way of adjustment under section 143(1)(a)(ii) is unsustainable. Accordingly, I delete the addition.

9. In the result, the appeal is allowed, as indicated above.

***Order pronounced in the open court on 26<sup>th</sup> July, 2022***

**Sd/-**  
**(SAKTIJIT DEY)**  
**JUDICIAL MEMBER**

Dated: 26<sup>th</sup> July, 2022.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi