

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN CIRCUIT BENCH, DEHRADUN**

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 45/DDN/2019
Assessment Year: 2015-16**

DCIT, Central Circle,
Dehradun.

(Appellant)

Versus Shreevaas Infrabuild Pvt. Ltd.
2nd Floor, MGF Metropolitan
Mall, Saket, New Delhi.
PAN: AAOCS9940A
(Respondent)

Assessee by : Sh. Rajesh Malhotra, CA
Revenue by : Sh. N.S. Jangpangi, CIT/DR

Date of hearing : 21.06.2023
Date of pronouncement: 23.06.2023

ORDER

This is an appeal by the assessee against order dated 19.03.2019 of learned Commissioner of Income-tax (Appeals)-IV, Kanpur pertaining to the assessment year 2015-16.

2. The only dispute in the present appeal relates to the deletion of addition made by the Assessing Officer on account of capital gain by invoking provisions of section 50C of the Income-tax Act, 1961.

3. Briefly, the facts are, in course of assessment proceedings, while verifying the return of income filed by the assessee, the Assessing Officer noticed that the assessee has shown long-term capital loss of Rs.1,99,79,869/- on sale of land situated in Tehri district. He further noticed that, while the assessee has shown the sale consideration of land of Rs.1,09,19,338/-, the stamp valuation authority has determined the value of property at Rs.4,37,32,664/- for stamp duty purpose. When the Assessing Officer proposed to substitute the declared sale consideration with the value determined by the stamp valuation authority for computing long term capital gain in terms of section 50C(1) of the Act, the assessee objected. Based on the objections of the assessee, the Assessing Officer made a reference to the departmental valuation officer (DVO) to determine the value of the property. Though, the DVO furnished the valuation report determining the value of property, more or less, matching the sale consideration shown by the assessee, however, the Assessing Officer discarded the valuation report of the DVO and adopted the value determined by the stamp valuation authority as the deemed sale consideration and computed long term capital gain at

Rs.3,10,29,410/-. The assessee contested the aforesaid addition before learned Commissioner (Appeals). Being convinced with the submissions of the assessee that once, the DVO has determined the value of the property at a particular amount, which is less than the value determined by the stamp valuation authority, the Assessing Officer cannot ignore DVO's valuation, learned Commissioner (Appeals) deleted the addition. Being aggrieved, Revenue is before us.

4. We have considered rival submissions and perused materials on record. As far as the factual aspect of the issue is concerned, there is no dispute that there is difference between the declared sale consideration and the value of the property determined by the stamp valuation authority. A reading of section 50C of the Act, as a whole, makes it clear, as per sub-section (1) of section 50C of the Act, if the declared sale consideration by the assessee is less than the value of the property determined by the stamp valuation authority for stamp duty purpose, the value determined by the stamp valuation authority will be substituted as the deemed sale consideration. However, an exception has been carved out in sub-section (2) of section 50C by

providing that if the assessee objects to adoption of value determined by the stamp valuation authority before the Assessing Officer, the Assessing Officer has to make a reference to the DVO for determining the value of the property. In the facts of the present appeal, undisputedly, the Assessing Officer, accepting assessee's objection, has made a reference to the DVO for determining the value of the property. Undisputedly, the DVO has furnished valuation report determining the value of property at a figure, more or less, identical to the sale consideration declared by the assessee. In the aforesaid scenario, sub-section (3) of section 50C comes into play, which provides that in a case where value determined by DVO exceeds the value determined by stamp valuation authority, in that case, the value determined by the stamp valuation authority shall be considered as the deemed sale consideration. Conversely, if the value determined by the DVO is less than the value determined by the stamp valuation authority, the value determined by the DVO has to be adopted. That being the statutory provision under section 50C of the Act, the Assessing Officer cannot adopt the value determined by the stamp valuation authority by overlooking the value determined by the DVO,

thereby going against the spirit of section 50C of the Act. If the Assessing Officer was not satisfied with the manner of determination of the value by the DVO, he could have sought further clarification from the DVO, which, however, is not the case. It is further relevant to observe, the DVO's report is dated 26.04.2017. Whereas, the dispute is arising in assessment year 2015-16. Therefore, it cannot be said that the DVO's report is not relevant to the impugned assessment year. In any case of the matter, as discussed elsewhere in the order, once the Assessing Officer has made a reference under section 50C (2) of the Act to the DVO, he has to abide by DVO's report, if it is less than the value determined by the stamp valuation authority. For the aforesaid reasons, we are not inclined to interfere with the decision of learned Commissioner (Appeals) on the issue. Ground is dismissed.

5. In the result, appeal is dismissed.

Order pronounced in the open court on 23/06/2023.

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-

(SAKTIJIT DEY)
VICE-PRESIDENT

Dated: 23.06.2023

*aks/-