



2. The grievances of the Revenue read as under:

"1. Whether on the facts and in the circumstances of the case, the CIT(A) is justified in deleting the addition of long term capital gain of Rs.3,00,59,2501- ignoring the fact that though deals regarding sale of lands were finalized during the F.Y. 2014-15 but sale-deeds of the properties were executed in the F.Y. 2015-16. During the year circle rates of agriculture land for the F.Y. 2015-16 were increased by Stamp Valuation Authority, Haryana and as per section 50C of the I. T. Act, 1961, the value adopted by stamp Authority has to be considered for the purpose of computation of capital gain.

2. Whether on the facts and in the circumstances of the case, the CIT(A) has erred in relying too much on amended provisions of section 50C wherein a proviso was inserted w.e.f. 01.04.2017 whereas in this case the transaction relates to F.Y.2015-16.

3. Whether on the facts and in the circumstances of the case, the CIT(A) is justified in deleting the addition of long term capital gain of Rs. 3,00,59,2501- ignoring the fact that during the assessment proceedings, neither the assessee has contested on the issue that value adopted by Stamp Valuation Authority exceeds the fare market value of the property as on date of

*transfer nor he made any request to refer the case to Valuation Officer for valuation of the said property.*

*4. Whether on the facts and in the circumstances of the case, the CIT(A) is justified in deleting the addition of long term capital gain of Rs. 3,00,59,2501 - ignoring the transactions of 50C of the I.T. Act. According to the value adopted by Stamp Valuation Authority in respect of transfer of a capital asset shall be deemed as full value of sale consideration for the purpose of computation of 'Capital Gain' arisen on transfer of such asset.*

*5. The appellant craves for leave to amend or alter any ground of appeal before or at the time of hearing of the appeal."*

3. The representatives of both the sides were heard at length, the case records carefully perused. We have also considered the documentary evidences brought on record in light of Rule 18(6) of the ITAT Rules.

4. The entire quarrel revolves around the fact that the assessee has shown immovable properties sold amounting to Rs.7,75,09,500/- on which value of the said property as per Stamp Authority is Rs.10,75,68,250/-, whereas sale consideration shown by the assessee is at Rs. 7,7 5,09,500/-.

5. The Assessing Officer made the impugned addition by invoking provisions of Section 50C of the Income-tax Act, 1961 [the Act, for short] and Id. CIT(A) deleted the addition holding that the amendment to Section 50C of the Act is retrospective and allowed benefit of sale consideration as per agreement to sell in which sale consideration was lesser than the value adopted by the stamp valuation authority.

6. The Id. DR has strongly supported the findings of the Assessing Officer stating that there was no agreement prior to the execution of the transfer deed. Therefore, there is no basis to adopt the sale consideration as per the agreement.

7. This contention of the Id. DR has to be rejected, as in the registered sale deed, It has been specifically mentioned that the deal was finalized in December 2014 and cheque of Rs. 2.25 crores was issued on 30.10.2014 and in fact, on that date, Stamp Papers have also been purchased by paying Rs. 3,88,500/-. For some reason, the sale deed could not be registered before 31<sup>st</sup> March and post 31<sup>st</sup> March, stamp duty value has been increased by the authorities.

8. On these facts, insertion of section 50C, by the Finance Act, 2016, W.E.F 01.04.2017 has to be given retrospective effect.

9. The co-ordinate bench in the case of Dharamshibhai Sonani ITA No. 1233/AHD/2013 had an occasion to consider an identical grievance and held as under:

"[9] So far as the amendment to Section 50C being retrospective in effect is concerned, there is no doubt about the legal position. I hold the provisos to Section 50C being effective from 1st April 2003. This is precisely what the learned counsel has prayed for. In his detailed written submissions, he has made out of a strong case for the amendment to Section 50C being treated as retrospective and with effect from 1st April 2003. The plea of the assessee is indeed well taken and deserves acceptance. What follows is this. The matter will now go back to the Assessing Officer. In case he finds that a registered agreement to sell, as claimed by the assessee, was actually executed on 29.6.2005 and the partial sale consideration was received through banking channels, the Assessing Officer, so far as computation of capital gains is concerned, will adopt stamp duty valuation, as on 29.6.2005, of the property sold as it existed at that point of time. In case the assessee is not content with this value being adopted under section 50C, he will be at liberty to seek the matter being referred to the DVO for valuation, again as on 29.6.2005, of the said property. As a corollary thereto, the subsequent developments in respect of the property sold (e.g. the

conversion of use of land) are to be ignored. It is on this basis that the capital gains will be recomputed. With these directions, the matter stands restored to the file of the Assessing Officer for adjudication de novo, after giving an opportunity of hearing to the assessee and by way of a speaking order. I order so.

[10] As I part with the matter, I may make one more observation. The amendment in Section 50C was brought in to provide relief to the assessee in a situation in which the stamp duty valuation of a property has risen between the date of execution of agreement to sell and execution of sale deed, as is the norm rather than exception, but the real estate market is now traversing through a difficult phase and there can be situations in which there is a fall in the stamp duty valuation rates with the passage of time. Such a situation has actually arisen in many places in the country, such as in Gurgaon and some other places. It is therefore possible that, at first sight, first proviso to Section 50C may seem to work to the disadvantage of the assessee in certain situation in the event of the word 'may' being construed as mandatory in application, but then one cannot be oblivious to the fact that this proviso states that "the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer (emphasis supplied)" making it clearly optional to the assessee, and that, in any event, what has been brought by the lawmakers as a measure of relief to the taxpayers cannot be construed as resulting in a higher tax burden on the taxpayers. Of course, assuming that my understanding of this

statutory provision is in harmony with the legislative intention, insertion of words "at the option of the assessee" between "stamp valuation authority on the date of agreement may" and "be taken for the purposes of computing full value of consideration for such transfer", in first proviso to Section 50C(1), could have made the legal provision even more unambiguous."

10. Similar view was taken by the Delhi Bench of the Tribunal in the case of Amit Bansal 100 [taxmann.com](http://taxmann.com) 334.

11. Considering the facts of the case in light of the decision of the co-ordinate benches (supra) we decline to interfere with the findings of the ld. CIT(A).

12. In the result the appeal of the Revenue in ITA No. 1292/DEL/2020 is dismissed.

The order is pronounced in the open court on 07.07.2023.

Sd/-

**[ASTHA CHANDRA]  
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 07<sup>th</sup> JULY, 2023.

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

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Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
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