

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC": NEW DELHI  
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 3494/Del/2023  
(Assessment Year: 2016-17)

Amit Kumar Bhardwaj, Vs. ITO,  
282, Boundary Road, Ward-58(2),  
Civic Line Meerut, Uttar Pradesh Delhi

**PAN: AJOPB9557C**

Assessee by : Shri Vinod Kumar Goel, Adv  
Revenue by: Shri Om Prakash, Sr. DR

Date of Hearing 17/01/2024  
Date of pronouncement 17/01/2024

**ORDER**

1. The appeal in ITA No.3494/Del/2023 arises out of the order of National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. ITBA/NFAC/S/250/2023-24/1058123488(1) dated 22.11.2023 against the order of assessment passed u/s 144 dated 20.12.2018 (hereinafter referred to as 'the Act') by ITO, Ward-58(2), Delhi (hereinafter referred to as 'Id. AO').

2. The assessee has raised the following grounds of appeal:-

"1. That assessment completed U/s 144 is bad in law, because A.O. has not provided proper and seasonable opportunity being heard and complete the assessment without any query & material available on record.

2. That A.O. twisted the facts that stamp value on sale deed is paid Rs. 53,91,400/- . However, on sale deed of fact the stamp value and sale is same as calculated by the assessee in computation, and stamp value taken by A.O. is without any basis Ld. CIT(A) is in error is confirmed the same.

3. That A.O. is in error to compute additional income Rs.29,91,400/- (53,91,400/- = 24,00,000/-) without considering following facts.

a. That property was purchased and sold in joint names.

*b. That after purchase construction was demolished and reconstructed.*

- (i) Ground Floor*
- (ii) Upper Ground Floor (First Floor)*
- (iii) IIInd Floor(Second Floor)*
- (iv) III'd Floor (Third Floor)*

*Set of which the assessee has jointly sold Ist & Illrd Floor for 24,00,000/- each floor. The ground floor & 2nd Floor in unsold yet.*

*4. That CIT(A) is in error that assessee has not raised and ground related to 50C However the assessee has raised this issue vide ground No. 2 hence, CIT(A) has not justified in confirming the addition made by the A.O.*

*5. That the assessee has right to add, delete or modify any grounds of appeal during the proceedings."*

3. I have heard the rival submissions and perused the material available on record. The assessee and his wife jointly purchased a residential property in February, 2013 for Rs. 55,20,000/- containing land and ground floor at Laxmi Nagar, Delhi. The assessee had constructed first floor, second floor and 3<sup>rd</sup> floor on the said property. During the year under consideration, the assessee and his wife sold first floor and 3<sup>rd</sup> floor totaling to Rs. 48 lakhs together with the undivided share of land on proportionate basis. Ground floor and second floor remained with the assessee and his wife. Accordingly, the short term capital gains arising on transfer of first floor and 3<sup>rd</sup> floor would have to be divided equally between assessee and his wife. Hence, the assessee's share of sale consideration would be Rs. 24 lakhs (Rs. 48 lakhs X50%). The Sale deeds for transfer of first floor and 3<sup>rd</sup> floor executed by the assessee and his wife jointly on 15.10.2015 and 16.11.2015 are enclosed in pages 12 to 39 of the PB. From perusal of the said sale deeds, we find that the value determined by the Stamp Valuation Authority for the purpose of levy of stamp duty is also Rs. 48 lakhs, which is the same value at which property was sold by the assessee. Hence, the assessee's sale consideration and consideration determined in terms of section 50C of the Act are equal and same. While this is so, I am unable to comprehend as to how the lower authorities had considered the sale consideration figure of Rs. 53,91,400/-. On the contrary, the registered sale deeds which is enclosed in pages 12 to 39 of the PB gives a total contrary picture and completely supports the case of the assessee. Hence, I have no hesitation to delete the

addition made in the sum of Rs. 29,19,400/- on the alleged differential sale consideration between actual consideration and consideration in terms of section 50C of the Act. Accordingly, grounds raised by the assessee are allowed.

4. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 17/01/2024.

-Sd/-

**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 17/01/2024  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi