

**THE INCOME TAX APPELLATE TRIBUNAL,  
'SMC' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)  
&  
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 1418/KOL/2023  
Assessment Year: 2020-2021**

***Pramod Kumar Agarwal,.....Appellant  
212, Flat-602, Girish Ghosh Road,  
Block Chowrah, Belur Bazar,  
Howrah-711202  
[PAN: ACHPA9101D]***

***-Vs.-***

***Assessment Unit,.....Respondent  
Income Tax Department,  
Govt. of India,  
Ministry of Finance***

**Appearances by:**

*Shri J.M. Thard, Advocate, appeared on behalf of the  
assessee*

*Shri Anup Biswas, Addl. CIT, appeared on behalf of  
the Revenue*

**Date of concluding the hearing : February 22, 2024**

**Date of pronouncing the order : February 22<sup>nd</sup>, 2024**

**O R D E R**

**Per Rajpal Yadav, Vice-President (KZ):- (ORAL)**

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 26.10.2023 passed for A.Y. 2020-21.

2. Though the assessee has taken seven grounds of appeal, but his grievances revolve around a single issue, namely whether any addition required to be made with the aid of section 50C of the Income Tax Act or not.

3. Brief facts of the case are that the assessee has filed his return of income on 25.12.2020. The case of the assessee was taken up for scrutiny assessment and notices were issued. On page no. 3 of the assessment order, ld. Assessing Officer has noted that assessee has sold a flat for a consideration of Rs.17,28,000/-. However, the Stamp Duty Valuation Authority valued the property for the purpose of charging stamp duty at Rs.33,54,000/-. The ld. Assessing Officer was of the view that Section 50C of the Income Tax Act contemplates that where there is a difference in valuation of the full consideration disclosed by the assessee, vis-à-vis the valuation determined by the Stamp Duty Valuation Authority, then, the difference will be deemed to be added or in other words, the full value will be deemed equivalent to the amount on which stamp duty has been paid.

4. The ld. Counsel for the assessee has submitted before us that though during the assessment proceeding, the assessee pressed objection u/s 50C(2) before the ld. Assessing Officer and reference was made under section 50C(2) of the Income Tax Act to the Departmental Valuation Officer for determining the fair market value of the property, but the DVO's report could not be finalized before passing of the assessment order. It received subsequent to the assessment order. The assessee came in

appeal before the ld. CIT(Appeals) but the appeal of the assessee has been dismissed *ex-parte* for want of prosecution.

5. Ld. Counsel for the assessee has placed on record the copy of the DVO's report on page 6 of the paper book.

6. With the assistance of ld. Representatives, we have gone through the record carefully and a perusal of the record would reveal that DVO has determined the fair market value of the property in dispute at Rs.18,21,600/-. On the other hand, the assessee has disclosed the sale consideration in the Sale Deed at Rs.17,28,000/-. If the difference between the sale consideration disclosed by the assessee, vis-à-vis determined by the DVO, is to be worked out, then, it is less than 10% of tolerance band provided in the 3<sup>rd</sup> proviso to section 50C. Therefore, no addition is called for. We allow the appeal of assessee and delete the addition made by the ld. Assessing Officer.

**7. In the result, the appeal of the assessee is allowed.**

Order pronounced in the open Court on 22/02/2024.

Sd/-	Sd/-
<b>(Rajesh Kumar)</b>	<b>(Rajpal Yadav)</b>
<b>Accountant Member</b>	<b>Vice-President (KZ)</b>
<b>Kolkata, the 22<sup>nd</sup> day of February, 2024</b>	

*Copies to :(1) Pramod Kumar Agarwal,  
212, Flat-602, Girish Ghosh Road,  
Block Chowrah, Belur Bazar,  
Howrah-711202*

(2) *Assessment Unit,  
Income Tax Department,  
Govt. of India, Ministry of Finance*

(3) *Commissioner of Income Tax (Appeals),  
National Faceless Appeal Centre (NFAC),  
Delhi;*

(4) *CIT- , Kolkata*

(5) *The Departmental Representative;*

(6) *Guard File*

*TRUE COPY*

*By order*

*Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

***Laha/Sr. P.S.***