

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ SMC, अहमदाबाद ।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
" SMC" BENCH, AHMEDABAD

BEFORE DR. BRR KUMAR, VICE PRESIDENT  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

आयकर अपील सं./ITA No.1295/Ahd/2024  
निर्धारण वर्ष /Assessment Year : 2012-13

Devindraben Rajeshbhai Sharma A/6, Wagehshwari Society Nr. Vrundavan 4 Rasta Waghodia Road Vadodara - 390 017 (Gujarat)	<u>बनाम/</u> <u>v/s.</u>	The ITO Ward-3(1)(1) Vadodara
स्थायी लेखा सं./PAN: CZGPS 1200 R		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :		Shri Sulabh Padshah, AR
Revenue by :		Shri C. Dharani Nath, Sr.DR

सुनवाई की तारीख/Date of Hearing : 18/11/2024  
घोषणा की तारीख /Date of Pronouncement: /11/2024

**आदेश/ORDER**

**PER DR. BRR KUMAR, VICE PRESIDENT**

This is an appeal filed by the assessee against the order of the Ld.Commissioner of Income Tax (Appeals) [CITA] , National Faceless Appeal Centre, Delhi in proceeding u/s.250 of the Income Tax Act, 1961 vide order dated 03/05/2024 passed for the Assessment Year (AY) 2012-13.

2. The grounds of appeal taken by the assessee are as under:-

Your appellant being aggrieved by the order passed by the learned Ld. Commissioner of Income-tax (Appeals) (herein after referred to as 'Ld. CIT (Appeals). Income tax Department, National Faceless Appeal Centre (NFAC) presents this appeal against the same on the following amongst other grounds:

1. The Ld. CIT (Appeals) has erred in confirming the action of AO invoking the provisions of Section 50C of the Act and making the addition of Rs 44,23,015/-. It is submitted that the provisions of Section 50C(1) are just not attracted in case of Appellant. On facts and circumstances of the case, the addition made and confirmed by lower authorities is completely incorrect and the same deserves to be deleted.

2. The Ld. CIT (Appeals) has erred in facts and on law in confirming the addition made of Rs 44,23,015/- wrongly interpreting the provisions of Section 50C of the Act. It is submitted that the case of Appellant has been squarely covered under First Proviso of Section 50C of the Act and thus the sale consideration fixed on date of agreement has to be considered as full valuation of consideration towards transfer of property. It therefore submitted that the addition made of Rs 44,23,015/- wrongly interpreting provisions of Section 50C of the Act is totally illegal and unjust and the same be deleted accordingly.

3. The lower authorities have erred in not considering the Banakhat entered into by Appellant dated 24.8.2010 without providing any valid reasons or pointing out any defect therein. It is submitted that the Banakhat entered into by the Appellant dated 24.8.2010 is duly notarized by an Advocate and containing all the details towards transfer of property. It is therefore submitted that the huge addition made of Rs 44,23,015/- doubling the genuine notarized Banakhat without pointing out any adversity therein is not at all tenable in the eyes of law and thus such impugned addition be deleted in the interest of justice.

4. The order passed by the Ld. CIT (Appeals) is bad in law and contrary to the provisions of law and facts. It is submitted that the same be held so now.

5. Your appellant craves leave to add, alter and/or to amend all or any of the grounds before the final hearing.

3. The brief facts of the case are that the assessee has sold an immovable property situated at Danteshwar Moje Gam Bopad, RS No.923, TP Scheme No.4, Final plot no.384, 385, Yamuna Co-op. Housing Society Ltd. for a consideration of Rs.42,00,000/-. The assessee is an individual and has not filed any return of income for the year under consideration. It has been observed that the Stamp Valuation Authority has valued the property at a

consideration of Rs..42,00,000/- thereby attracting the provisions of section 50C of the Income Tax Act, 1961 ("the Act").

4. We have heard both the parties and perused the material available on record. The undisputable facts required for adjudication of the case are:

- (1) That, the assessee has entered into an agreement to sale referred as Banakhat on 24/08/2010 which has been duly inventorized on 25/08/2010 and paid an advance of Rs.1,lakh.
- (2) That, the assessee has executed a sale deed on 25/11/2011 for sale of residential property of Rs.42,00,000/-.
- (3) That, the Revenue has invoked the provisions of section 50C considering the date of registration of the sale deed, i.e. on 25/11/2010.
- (4) Provisions of Section 50 reads as under:

**Special provision for full value of consideration in certain cases.**

**50C.**(1) Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government (hereafter in this section referred to as the "stamp valuation authority") for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purposes of [section 48](#), be deemed to be the full value of the consideration received or accruing as a result of such transfer :

*Provided* that where the date of the agreement fixing the amount of consideration and the date of registration for the transfer of the capital asset are not the same, 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:

*Provided further* that the first proviso shall apply only in a case where the amount of consideration, or a part thereof, has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, on or before the date of the agreement for transfer:

*Provided also* that where the value adopted or assessed or assessable by the stamp valuation authority does not exceed one hundred and ten per cent of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of [section 48](#), be deemed to be the full value of the consideration.

4.1. Since the factum entering into an agreement on 25/08/2010 is not in dispute, we hold that the value as on the date of entering into an agreement which was on 25/08/2010 be considered as sale value in accordance with law of provisions of Section 50C of the Act. Therefore, we set aside the order of the Id.CIT(A) and allow the grounds of appeal raised by the assessee.

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

**Order pronounced in the Court on 22<sup>nd</sup> November, 2024 at Ahmedabad.**

**Sd/-  
(SUCHITRA KAMBLE)  
JUDICIALMEMBER**

**Sd/-  
( DR. BRR KUMAR )  
VICE PRESIDENT**

*टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS*

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. □ पीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (□ पील) / The CIT(A)-(NFAC), Delhi
5. विभागीय प्रतिनिधिआयकर □ पीलीय □ धिकरण /DR, ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)  
आयकर □ पीलीय □ धिकरण, ITAT, Ahmedabad