

IN THE INCOME TAX APPELLATE TRIBUNAL
PANAJI BENCH, PANAJI
BEFORE SHIR PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI G D PADMAHSHALI, ACCOUNTANT MEMBER
ITA No. 114/PAN/2024
(A.Y: 2016-17)

Mr.Pralhad L Arondekar, H.no.137 1589/Cal, Naikawado, Calangute-403516, Goa.	Vs.	ITO-Ward2(1), AaykarBhavan,Plot.no.5, EDC Complex, Patto Plaza, Panaji-403001. Goa.
PAN/GIR No. : ACAPA5860C		
Appellant	..	Respondent

Appellant by :	Ms.Priyanka Kamat.AR
Respondent by :	Mr.Narendra Reddy. Sr.DR

Date of Hearing	06.02.2025
Date of Pronouncement	11.02.2025

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The appeal is filed by the assessee against the order of the National Faceless Appeal Centre (NFAC), Delhi/CIT (A) passed/sec 143(3) and u/sec250 of the Act.

2. The brief facts of the case are that, the assessee is an individual and is engaged in the business of real

- 2 -

estate. The assessee has filed the return of income for the A.Y 2016-17 on 13.10.2016 disclosing a total income of Rs.11,81,950/-. Subsequently, the case was selected for limited scrutiny under the CASS to verify and examine the capital gains/loss on sale of property and further the sale consideration is less than the value as per stamp duty valuation authorities. The Assessing Officer (A.O.) has issued notice u/sec 143(2) and u/sec 142(1) of the Act along with questionnaire. In compliance, the Ld.AR of the assessee appeared from time to time and filed the details. During the financial year 2015-16, the assessee has sold the building i.e. ground plus three floors for an aggregate sale consideration of Rs.1,00,00,000/-, whereas the market value/guideline value as per the stamp duty valuation authorities is Rs.1,72,58,250/-. Whereas the government value is higher and the provisions of section 43CA of the Act are also applicable. Similarly in respect of purchase of immovable properties i.e. two plots by the assessee, the A.O found the aggregate purchase consideration is Rs.22,57,740/- whereas the market value as per the stamp duty value is Rs.66,89,600/- and the

- 3 -

difference in value is Rs.44,31,860/-. Further on the request of the assessee vide letter dated 14.12.2018, the A.O has referred to the DVO/ valuation cell, and since the report was not received and considering the time barring assessment, the A.O. has adopted the value as per stamp duty authorities and made an addition of difference in consideration reported in the sale deeds and market value of Rs.72,58,250/- and similarly in respect of purchase of immovable properties i.e. two plots, as discussed above made an addition of difference amount of Rs.44,31,860/- and finally the A.O has assessed the total income of Rs.1,28,72,060/- and passed the order u/s 143(3) of the Act on 28-12-2018.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A). In the appellate proceedings, the CIT(A) has considered the grounds of appeal, finding of the proceedings but has confirmed the action of the A.O and dismissed the assessee appeal. Aggrieved by the CIT(A) order, the assessee has filed an appeal before the Hon'ble Tribunal.

- 4 -

4. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in sustaining the action of the Assessing officer in adopting the value as per stamp valuation authorities though the value as per DVO report filed in the appellate proceedings is lower than the guideline value of the stamp value authorities. The Ld.AR substantiated the submissions with factual paper book and judicial decisions and prayed for allowing the appeal. Per Contra, the Ld. DR supported the order of the Ld.CIT(A).

5. We heard the rival submissions and perused the material on record. The sole disputed issue envisaged by the Ld.AR that the CIT(A) has erred in adopting value as per stamp duty authorities, though the DVO report value which is lower than the registering authority was filed in the proceedings. The Ld AR submitted that the value as per DVO report is binding on the AO and required to be mandatorily applied. We find in the assessment proceedings, the assessee has agitated the applicability of provisions of Sec. 50C of the Act for adopting the value determined by the registering authority, therefore the matter was referred to the district valuation officer (DVO) as per

- 5 -

Sec. 55A(a) of the Act at the request of the assessee vide letter dated 14.12.2018. Whereas, the DVO report was not received in the assessment proceedings and the assessment order was passed u/sec 143(3) of the Act on 28.12.2018. Subsequent to the assessment order, the assessee has filed an appeal on 28.03.2019 with the CIT(A). The Ld.AR demonstrated the DVO report in respect of sale of building and purchase of plots at Page 54 to 69 of the paper book which was sent to the A.O only after completion of assessment u/sec 143(3) of the Act. The Ld.AR emphasized that the CIT(A) has overlooked the value as per DVO report and erred in confirming the value adopted by the A.O. Prima-facie the CIT(A) has dealt on the findings of the AO and has considered the submissions of the assessee but has not accepted the evidences in support of the claim. Therefore, we considering the overall facts, circumstances and principles of natural justice shall provide with one more opportunity of hearing and accordingly restore the disputed issue to the file of the CIT(A) for afresh adjudication and the CIT(A) shall pass a speaking order on merits in accordance with the provisions of

- 6 -

the Act. The CIT(A) shall provide adequate opportunity of hearing to the assessee and the assessee should also cooperate in submitting the information for early disposal of the appeal. And the grounds of appeal of the assessee are allowed for statistical purpose.

6. In the result, the appeal filed by assessee is allowed for statistical purposes.

Order pronounced in the open court on 11.02.2025.

Sd/-

(GD PADMAHSHALI)

ACCOUNTANT MEMBER

Panaji Dated: 11/02/2025

Sd/-

(PAVAN KUMAR GADALE)

JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//()

1.

(Asst. Registrar)
ITAT,Panaji

		Date	<u>Initial</u>	
1.	Draft dictated on			PS
2.	Draft placed before author			PS
3.	Draft proposed & placed before the second member			PS
4.	Draft discussed/approved by Second Member.			PS
5.	Approved Draft comes to the Sr.PS/PS			PS
6.	Kept for pronouncement on			
7.	File sent to the Bench Clerk			
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			
11.	Dictation Pad is enclosed			