

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'G', NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER  
AND SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.1077/Del/2024  
Assessment Year: 2017-18**

<b>Sushma Bajaj, 200 Sukhdev Vihar, Delhi – 1100 25 PAN No.AAMPB1382L</b>	<b>Vs.</b>	<b>ACIT, Circle 28(1), Delhi</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	<b>Shri Priyansh Jain, Advocates</b>
Respondent by	<b>Shri Sahil Kumar Bansal, Sr. DR</b>

Date of hearing:	12/02/2025
Date of Pronouncement:	19/02/2025

**ORDER**

**PER ANUBHAV SHARMA: JUDICIAL MEMBER:**

This appeal is directed by the assessee against the order dated 07/02/2024 passed by the Commissioner of Income Tax(Appeals)/National Faceless Assessment Centre (NFAC), Delhi [hereinafter referred to as “CIT(Appeals)” pertaining to assessment year 2017-18 and arises out of the assessment order dated

23.12.2019 passed under section 143(3) of the Income Tax Act 1961 [hereinafter referred as 'the Act'].

2. Heard and perused the records. The assessee's return was selected for scrutiny and an addition was made by invoking the provisions of section 50C of the Act. The issue arises out of the fact that during subject year, assessee has sold her rights in respect of two properties located at Suncity Prikarma Projects, Sector 20, Panchkula.

3. Admittedly, the possession of flat was not received by the assessee as the same were under construction. The Assessing Officer has made addition invoking section 50C of the Act by making reference to the valuation arrived of the flat by the learned DVO.

4. Learned Departmental Representative has defended the addition on the basis that section 50C of the Act refers to capital assets and the rights sold are included in the definition of capital assets.

5. After taking into consideration the provisions of section 50C of the Act, we are of the considered view that the capital assets referred in section 50C of the Act, restricts application to "land or building or both". However, mere rights, which may be enforceable under law

but not falling in definition of to “land or building or both” cannot be considered to be a capital assets of the nature for which deeming income provisions of section 50C of the Act can be invoked. Reliance in this regard can be placed on the decision of Co-ordinate Bench in the case of **Anil Jain vs. DCIT ITA No. 3777/Del/2013 order dated 16/01/2018**, wherein the Co-ordinate Bench has observed as follows:

*"3.5.6 From the above facts, we are of the opinion that provisions of section 50C of the Act are not applicable in the case of the assessee as the capital asset involved here was not land or building but it is a right to purchase a building (shop). Further, the Revenue Authorities has also not brought on record whether the transfer of the property was registered with the Stamp Valuation Authority.*

*3.5.7 Since in the case provisions of section 50C of the Act are not applicable, the provisions of section 48 of the Act would be applicable and as observed by us in earlier paras that full value consideration received cannot be substituted by the fair market value determined by the DVO as held in the various decisions cited above, we set aside the finding of the lower authorities on the issue in dispute and delete the addition made by the Assessing Officer. The ground No. 2 of the appeal is accordingly allowed."*

6. In this regard, further reliance can be placed on the following decisions, as relied and cited by ld. AR:

- i) Rekha Agarwal v. ITO, [2017] 79 taxmann.com 290 (Jaipur Trib.);

- ii) Smt. Devindraben I. Barot v. ITO, [2016] 159 ITD 162 (Ahd. Trib.);
- iii) ITO vs. Yasin Moosa Godil [2021] 18 ITR(T) 253 (Ahd.);
- iv) M/s. Baniara Engs. Pvt. Ltd. v. ITO, ITA No.635/Kol/2018 vide order dated 04.07.2018;

7. We are of the considered view that as for as the purpose of section 50C of the Act, valuation report of the DVO is not the parameter or which can be used for benchmarking the transaction of sale of capital assets referred to in section 50C of the Act and it is only the statutory valuation of the authorities referred in the Section 50C of the Act who are entitled to make the valuation under the corresponding law so as to allege a deemed income escapement to invoke section 50C of the Act. Thus the grounds raised are sustained and **the appeal is allowed.**

**Order pronounced in the open court on 19.02.2025.**

**Sd/-**  
**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(ANUBHAV SHARMA)**  
**JUDICIAL MEMBER**

\*Mohan Lal\*  
Dated: 19.02.2025

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1.Appellant

2.Respondent

3.CIT

4.CIT(Appeals)

5.DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI