

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, AGRA

**BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकरअपील सं. / ITA No.143/Agr/2024
(निर्धारणवर्ष / Assessment Year: 2018-19)

Shri Vishnu Kumar Jain 28/132, Ratan Pura Agra 282002	बनाम/ Vs.	ITO 2(1)(2) Agra
स्थायीलेखासं./जीआइआरसं./TAN/GIR No. ACQPJ-6723-P		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by :	Shri Gaurav Goyal (CA) – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by :	Dr. Arun Kumar Yadav – Ld. CIT-DR

सुनवाईकीतारीख/ Date of Hearing :	19-02-2025
घोषणाकीतारीख / Date of Pronouncement :	28-03-2025

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. By way of this appeal, the assessee question to correctness of revisionary jurisdiction as exercised by Ld. Pr. Commissioner of Income Tax for AY 2018-19 vide impugned order dated 12-03-2024 proposing revision of an assessment framed by Ld. AO u/s 143(3) on 08-04-2021. After hearing vehement arguments of both the sides, the appeal is disposed-off as under.

2. The perusal of assessment order would show that the assessee’s case was scrutinized to verify investment in immovable property and sale of property for a consideration less than stamp duty valuation u/s 50C. After considering assessee’s explanation, Ld. AO accepted the returned

income. The Ld. Pr. CIT noted that the assessee purchased certain property at 28/132, Ratanpura, Hari Parwat, Agra for consideration of Rs.46.50 Lacs as against its stamp duty valuation of Rs.82.83 Lacs. It was stated by the assessee that there was long dispute between the owner of the property and assessee tenant. The court ordered that the property would be sold to the assessee for Rs.46.50 Lacs as the property could not be vacated and any other person willing to pay more amount could not be found. Therefore, since the transaction was done as per Court order, the excess stamp duty value was not offered as income from other sources. The Court order was as per settlement agreement between landlord and assessee tenant. Thus, the agreed value of Rs.46.50 Lacs was as per mutual agreement and not as per court order. The Ld. AO without making any enquiry and verifying the facts from court order framed the assessment. Accordingly, the assessee was show-caused proposing revision of the order on the issue of Sec.50C. The assessee opposed the same on the ground that assessment order was passed after verifying all the documents and submissions made by the assessee and Ld. AO accepted the assessee's claim regarding property purchase transaction. However, Ld. Pr. CIT treated the assessment as cancelled and Ld. AO was directed to pass fresh order. Aggrieved, the assessee is in further appeal before us.

3. It could be seen that the assessee's case was specifically scrutinized to verify the purchase of property at a lesser value than its stamp duty valuation. The Ld. AO, in notice u/s 142(1) dated 20-12-2019, raised a specific query in this regard. In response, the assessee filed a detailed reply giving all the particulars and by furnishing explanation regarding sale consideration. The copy of order of Civil Judge-4, Agra

was also furnished along with various other relevant documents. Considering all these aspects / submissions, Ld. AO accepted the claim of the assessee and chose not to make any such addition on this account. In our view, Ld. AO had taken one of the possible views in the matter and the same could not be said to be opposed to any law or any statutory provisions. Having gone through the reply of the assessee and after having satisfied himself, Ld. AO accepted the claim of the assessee with due application of mind. Considering the given factual matrix, the said view of Ld. AO could be said to be one of the possible views. In such a scenario, Ld. Pr. CIT, in our considered opinion, could not have substituted the opinion of Ld. AO with that of his own view unless the view of Ld. AO was shown to be perverse. We find that the view of Ld. AO was a plausible view. Further, the provisions of Sec.50C are not absolute rather a provision has been made for reference to DVO for valuing the property in cases where the assessee questions the stamp duty valuation. This being the case, the revision of the order could not be held to be justified. Lastly, Hon'ble High Court of Madras in the case of **CIT vs. Smt. Padmavathi (TCA No.350 of 2020 dated 06-10-2020)**, on similar facts, considered the effect of the guideline value fixed by the State Government and observed that there are long line of decisions of the Hon'ble Supreme Court holding that guideline value is only an indicator and the same is fixed by the State Government for the purposes of calculating stamp duty on a deed of conveyance. Therefore, merely because the guideline was higher than the sale consideration shown in the deed of conveyance, the same could not be the sole reason for holding that the assessment was erroneous and prejudicial to the interest of revenue. Respectfully following the same, we quash the impugned

revisionary order and restore the assessment as originally framed by Ld. AO.

4. The appeal stand allowed in terms of our above order.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(SATBEER SINGH GODARA)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / ACCOUNTANT MEMBER

Dated: 28-03-2025

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA