

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DEHRADUN BENCH, DEHRADUN**

**Before Sh. Satbeer Singh Godara, Judicial Member  
&  
Sh. M. Balaganesh, Accountant Member**

**ITA No. 42/DDN/2024 : Asstt. Year : 2016-17**

Hemant Dalakote, Swasthya Vihar, Kaladhungi Road, Haldwani-263139	Vs	ACIT, Circle-2(1)(1), Haldwani-263139
(APPELLANT)		(RESPONDENT)
<b>PAN No. AFAPD4294C</b>		

**Assessee by: None**

**Revenue by: Sh. Amar Pal Singh, Sr. DR**

<b>Date of Hearing: 17.03.2025</b>	<b>Date of Pronouncement: 23.04.2025</b>
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**ORDER**

**Per Satbeer Singh Godara, Judicial Member:**

This assessee's appeal for Assessment Year 2016-17, arises against the CIT(A)/NFAC, Delhi's DIN & order No. ITBA/NFAC/S/250/2022-23/1046008433(1) dated 27.09.2022, in proceedings u/s 143(3) of the Income Tax Act, 1961 (in short "the Act").

2. Case called twice. None appears at the assessee's behest. It is accordingly proceeded *ex-parte*.

3. It emerges during the course of hearing that both the learned lower authorities have added the alleged undisclosed short term capital gains of Rs.24,15,000/- representing the difference between actual sale consideration and the stamp price of the corresponding four capital assets/sale deed

executed on as many occasions in the relevant financial year involving aggregate sums of Rs.47,20,000/- and Rs.71,35,000/-; respectively.

4. The Revenue vehemently argues during the course of hearing that both the learned lower authorities have rightly invoked section 50C r.w.s. 69A addition in the given facts of the case. It could hardly any dispute that no reference to the DVO has been made in either of the lower proceedings. Learned departmental representative vehemently argues that no such reference could be made in absence of assessee's corresponding objections raised before the Assessing Officer u/s 50C(2) of the Act.

5. We find no merit in the Revenue's foregoing contention in light of Sunil Kumar Agarwal vs. CIT (2015) 372 ITR 83 (Cal.) has settled the issue in assessee's favour that such a section 50C(2) reference is indeed mandatory even if there is no objection coming from the taxpayer side. We accordingly accept the assessee's instant appeal for statistical purposes and restore the issue back to the Assessing Officer for his afresh appropriate adjudication in very terms. Ordered accordingly.

6. This assessee's appeal is allowed for statistical purposes.

Order Pronounced in the Open Court on 23/04/2025.

Sd/-

Sd/-

**(M. Balaganesh)**  
**Accountant Member**

**(Satbeer Singh Godara)**  
**Judicial Member**

**Dated: 23/04/2025**

\*Subodh Kumar, Sr. PS\*

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Appellant

1. Respondent

2. CIT

3. CIT(Appeals)

4. DR: ITAT

**ASSISTANT REGISTRAR**