

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

**Before Sh. Satbeer Singh Godara, Judicial Member  
&**

**Sh. S. Rifaur Rahman, Accountant Member**

**ITA No. 2220/Del/2024 : Asstt. Year : 2020-21**

Madhukar Wadhera, 23, Turf Lane Roslyn Heights, New York, USA-11577	Vs	Assessing Officer, Intl. Tax Circle-3(1)(1), New Delhi-110002
(APPELLANT)		(RESPONDENT)
<b>PAN No. ADRPW7079B</b>		

**Assessee by : Sh. Salil Kapoor &  
Sh. Tarun Chanana, Adv.**

**Revenue by : Sh. Vijay B. Vasanta, CIT-DR**

**Date of Hearing: 10.03.2025**

**Date of Pronouncement: 05.06.2025**

**ORDER**

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

This assessee's appeal for Assessment Year 2020-21 arises against the AO, Circle Intl. Tax-3(1)(1), Delhi, assessment order dated 28.06.2023 framed in consequence to the Dispute Resolution Panel ("DRP")-2, New Delhi directions dated 08.02.2023, in proceedings u/s 143(3) r.w.s. 144C(13) of the Income Tax Act, 1961 (in short "the Act").

2. Heard both the parties at length. Case file perused.

3. It emerges during the course of hearing that the learned lower authorities have computed the assessee's long term capital gains in his hands amounting to Rs.5,58,88,487/-, in the Assessing Officer's assessment framed on 28.06.2023 in

question. There is no dispute between the parties about the assessee having sole/transferred the relevant capital asset(s) representing a residential plot No. 177A, Block-A, Sushant Lok, Gurgaon having area measuring 782 sq. mtrs. for total consideration of Rs.7,21,00,000/-. All this followed his long term capital gains computation adopting the cost of acquisition thereof i.e. fair market value as on 01.04.2001 u/s 55(2), to the tune of Rs.2,33,73,000/- @ Rs.25,000/- per sq. yards. We reiterate further that the sole dispute herein is about the correctness of the assessee's above cost of acquisition only; duly supported by a registered valuer, which has been negated in the assessment order in para 8.1 quoting section 55(2)(b)(ii) r.w. proviso thereto, for the purpose of rejecting the impugned claim.

3.1 This is what leaves the assessee aggrieved.

4. We have given our thoughtful consideration to the assessee's and Revenue's vehement submissions. The Revenue strongly supports the Assessing Officer's impugned findings in light of the above statutory proviso. Faced with this situation, we note that the legislature has inserted the above proviso to section 55(2)(b)(ii) vide Finance Act, 2020 w.e.f. 01.04.2021 and the same is followed by the Explanatory Memorandum that it does not carry any retrospective effect. We are reiterating

the fact that the assessment year involved herein is A.Y. 2020-21. That being the case, we neither find merit in the Revenue's foregoing contentions nor the assessee's valuation of Rs.25,000/- per sq. yards as on 01.04.2001, could be accepted in entirety since not supported by any cogent evidence. Learned Assessing Officer further appears to have made it clear in para 7.3 of the assessment discussion that even the circle rate in A.Y. 2009-10 i.e. much after 01.04.2001 was @ Rs.27,000/- per sq. yards as per the case records.

5. We are of the considered view in this factual backdrop that fair market value of the assessee's above residential plot/capital asset deserves to be adopted at a lump sum figure of Rs.20,000/- per sq. yards as on 01.04.2001 with a rider that the same shall not be treated as a precedent. Necessary computation shall follow as per law.

6. No other ground or argument has been pressed before us.

7. This assessee's appeal is partly allowed in above terms.

Order Pronounced in the Open Court on 05/06/2025.

Sd/-

**(S. Rifaur Rahman)**  
**Accountant Member**

**Dated: 05/06/2025**

Sd/-

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