

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
ITA No. 2781/MUM/2025 (AY: 2017-18)
(Physical hearing)

Grace Suburban Development Venture 102, Chandramani Bldg. Vile Parle (E), Mumbai – 400057. [PAN: AAHFG5434D]	Vs	ITO, Ward – 23(1)(1), Mumbai Piramal Chamber, Parel, Mumbai – 400013.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Dipesh Poptani, CA
Revenue by	Shri Surendra Mohan, Sr. DR
Date of Institution	23.04.2025
Date of hearing	23.07.2025
Date of pronouncement	29.08.2025

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER;

1. This appeal by assessee is directed against the order of Ld. CIT(A)/NFAC dated 26.02.2025 for assessment year (AY) 2017-18. The assessee has raised following grounds of appeal:

"1. The Ld. CIT (A) has decided appeal with a closed mind and without considering the facts and circumstances of the case.

2. The Ld. CIT(A) has disregarded the fact that the flat was sold in May 2014, and the Agreement came to be registered in September 2016.

3. The Ld CIT(A) has passed an Order without considering our request for referring the matter to DVO. No report was obtained from the DVO (Valuation officer).

4. The Ld CIT(A) has disagreed the fact that the Ld AO has not has not given us a proper opportunity of being heard.

5. The Appellant craves to add, alter, delete, modify or withdraw any of the above Grounds of appeal."

2. Rival submissions of both the parties have been heard and record perused.
The learned Authorised Representative (Id. AR) of the assessee submits that the assessee is builder and developer. During the year under consideration the assessee entered in to registered agreement for sale of its unit/ Flat. The assessing officer made addition of Rs. 4,97,378/- under section 43CA/ of the Income Tax Act on the basis of difference in sale consideration of a Flat No. 501 i.e one BHK Unit, shown on agreement and value of flat determined by Stamp Valuation Authority. The purchaser of flat agreed to purchase the said flat in May 2014 for a lump sum consideration. The assessee made request to refer the matter to departmental valuation officer (DVO) for estimation of fair market value. The request of assessee was not accepted by assessing officer. The request of video conferencing was also not allowed. The Id. CIT(A) also disregarded the submission of assessee and assessee and without considering the documentary evidences furnished by assessee made addition. The assessee has filed copy of allotment letter dated 15.05.2014
3. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the revenue supported the order of lower authorities.
4. I have considered the rival submissions of both the parties and gone through the orders of lower authorities carefully. I have also gone through the various documentary evidences including the bank statement of purchaser of flat no. 501 and the ledger account of assessee. I find that assessing officer during the assessment proceedings noted that assessee sold Flat no. 501 by showing consideration of Rs.38,50,000/- and the Stamp valuation Authority valued the Flat at Rs. 44,47,378/- for the purpose of registration of

agreement. Thus, there was a difference vis-à-vis sale consideration shown in agreement and value determined by Stamp Valuation Authority in respect of Flat no. 501. The assessing officer invoked the provisions of section 43CA and added the difference of Rs. 4,97,378/-. The Id. CIT(A) confirmed the action. I find that the lower authorities disregarded the submission of assessee for refereeing the matter to the DVO. Hence, the matter is restored back to the file of jurisdictional assessing officer with direction to refer the matter to the DVO for estimation of fair market value. And after receipt of report of DVO pass order afresh in accordance with law. Needless to direct that before passing the order, the assessing officer shall allow opportunity to the assessee. In the result, ground of appeal raised by assessee is allowed for statistical purpose.

5. In the result, the appeal of assessee is allowed for statistical purpose.

Order was pronounced in the open Court on 29/08/2025.

Sd/-
PAWAN SINGH
JUDICIAL MEMBER

MUMBAI, Dated: 29/08/2025

Biswajit

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai