



**IN THE INCOME TAX APPELLATE TRIBUNAL  
ALLAHABAD BENCH "DB", ALLAHABAD**

**BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER  
AND SHRI SUBHASH MALGURIA, JUDICIAL MEMBER**

ITA No.28/ALLD/2019  
Assessment Year: 2015-16

<b>M/s. H. K. Infraventure Pvt Ltd</b> 17, Industrial Colony, Naini Allahabad-211008.	v.	<b>ACIT, Central Circle Allahabad</b> 38, Mahatma Gandhi Marg, Allahabad-211001.
<b>PAN:AACCH6249K</b>		
(Appellant)		(Respondent)

ITA No.120/ALLD/2025  
Assessment Year: 2015-16

<b>M/s. H. K. Infraventure Pvt Ltd</b> 17, Industrial Colony, Naini Allahabad-211008.	v.	<b>Assistant Commissioner of Income Tax (Appeals) Income Tax Department NFAC</b> Delhi.
<b>PAN: AACCH6249K</b>		
(Appellant)		(Respondent)

Appellant by:	Shri Praveen Godbole, (Application)		
Respondent by:	Shri. Amalendu Nath Mishra, CIT(DR)		
Date of hearing:	09	09	2025
Date of pronouncement:	30	10	2025

**ORDER**

**PER ANADEE NATH MISSHRA, A.M.:**

(A) These two appeals filed by the assessee are being disposed off through this consolidated order for the sake of brevity and convenience. ITA. No. 28/ALLD/2019 pertains to A.Y. 2015-16 against impugned appellate order dated 20.02.2019 and ITA.

No.120/ALLD/2025 pertains to A.Y. 2015-16 dated 11.06.2025 respectively. Grounds of appeal are as under: -

**ITA. NO. 28/ALLD/2019**

*“1. That in any view of the matter order passed u/s 143(3) by the assessing officer dated 19-12-2017 is bad in facts and in law and his action as partly confirmed by the Commissioner of Income Tax (Appeal) is unjustified and wrong in the facts and circumstances of the case.*

*2. That in any view of the matter addition of Rs. 18,99,000/- made by the assessing officer by invoking section 50C of the IT Act and his action as confirmed by the CIT(A) is incorrect in so far as the assessee received the amount as mentioned in the sale deed from the purchasers of the flat through banking channels in which and no cash element was involved, hence the addition so made and maintained is unwarranted and liable to be deleted in the facts and circumstances of the case.*

*3. That in any view of the matter no material was brought on record by the department that any amount over and above the sales consideration as mentioned in the deed was given by the purchaser to the assessee, hence the addition so made on presumption basis is unwarranted.*

*4. That in view of the matter due to ‘VAASTU DOSH’ in the flat, the assessee failed to get any amount over and above the sale consideration as mentioned in the sale deed and purchaser of flat also confirmed the fact, hence the addition so made and maintained ignoring the correct facts is unwarranted.*

*5. That in any view of the matter disallowance/addition other than the addition of Rs. 18,99,000/- as per para 11, 28 and 31 of the first appellate order as referred to the assessing officer is wrong and uncalled for in the facts and circumstances of the case. The claim as made in respect of service tax is liable to be allowed during the year and not in subsequent year.*

*6. That in any view of the matter observations and findings of the two lower authorities in their orders for making and maintaining the addition are quite unjustified and incorrect and hence the same are liable to be sponged off.*

*7. That in any view of the matter interest charged under section 234A is highly unjustified and incorrect as the original return was filed in time.*

*8. That in any view of the matter penal interest charged under section 234B of the Act is highly unjustified because the addition was made in declared income and added income is not the real income of the assessee, hence penal interest so charged is liable to be deleted.*

*9. That in any view of the matter the assessee reserves his right to take any fresh ground of appeal before hearing of the appeal.*

*It is therefore respectfully prayed that a suitable order may kindly be passed and relief be allowed accordingly in interest of justice.”*

**ITA. NO. 120/ALLD/2025**

*1. That in any view of the matter penalty order under section 271 (1) (C) by imposition of penalty is totally incorrect, illegal rather baseless, hence penalty is unwarranted.*

*2. That in any view of the matter the CIT(A) NFAC it totally wrong in directing AO to reduce the penalty instead of CIT(A) NFAC is bound to delete the penalty in the facts and circumstances of the case, hence the orders of the two lower authorities are incorrect and unjustly.*

*3. That in any view of the matter on the facts and circumstances of the case imposition of penalty as well as maintenance of penalty in the light of CIT(A) NFAC order is not correct and is highly unjustified and his direction to AO liable to be sponge as it is not fit case for imposition of penalty.*

*4. That in any view of the matter the assessee reserves his right to take any fresh ground of appeal before hearing of the appeal.*

*It is, therefore, respectfully prayed that a suitable order may kindly be passed and relief be allowed accordingly.”*

(B) First, we take up the appeal filed by the assessee in ITA. No. 28/ALLD/2019. Although multiple grounds have been taken in the appeal, the only issue in dispute is regarding the addition of Rs.18,99,000/- made by the Assessing Officer by invoking section 50C of the Income Tax Act, 1961 (“Act”, for short) read with section 43CA of the Act. Thereafter, the Assessing Officer made this addition in respect of the sale of two flats by the assessee, at prices below the circle rate. The Ld. CIT(A) confirmed the addition in the impugned order.

(B.1) At the time of hearing before us, the Ld. Authorized Representative for assessee submitted that the prices for the aforesaid two flats were relatively lower because of “*Vaastu Dosh*”. Further, he submitted that there is no material to show that the sale consideration actually received by the assessee was higher than what was disclosed by the assessee. Further, he submitted that the Assessing Officer erred in making the addition

without referring to the Valuation cell, for determining the fair market value of the flats. He submitted that the issue in dispute regarding the aforesaid addition of Rs.18,99,000/- may be restored back to the file of the Assessing Officer, with the direction to pass *de novo* assessment order on this specific issue, after obtaining report of the Valuation Cell and after providing reasonable opportunity to the assessee. The Ld. Departmental Representative for Revenue relied on the assessment order as well as impugned order of the Ld. CIT(A).

(B.2) We have heard both sides. We have perused the materials on record. We are of the view that the Assessing Officer erred in making the addition in the present case without making reference to the valuation or determining the fair market value of the aforesaid flats sold, when the facts and circumstances of the case required him to do so. Therefore, the issue in dispute regarding the aforesaid addition of Rs.18,99,000/- is restored back to the file of the Assessing Officer with the direction to make a reference to Valuation Cell for determination of fair market value of the aforesaid two flats; and to thereafter pass *de novo* assessment order in accordance with law on this specific issue, after providing reasonable opportunity to the assessee. In the result, the appeal of the assessee is partly allowed for statistical purposes.

(C) In ITA. No.120/ALLD/2025 for A.Y. 2015-16, the matter pertains to levy of penalty u/s 271(1)(c) of the Act. In the foregoing paragraph of this order, we have restored the matter regarding the addition of Rs.18,99,000/- for A.Y. 2015-16, to the file of the Assessing Officer, with certain directions. In the fitness of things, therefore, the matter regarding levy of penalty u/s

271(1)(c) of the Act is also hereby restored back to the file of the Assessing Officer with a direction to pass a fresh order in accordance with law, if deemed fit, after carrying out the directions contained in foregoing paragraph (B.2) of this order and after providing reasonable opportunity to the assessee.

In the result, both appeals of the assessee are partly allowed for statistical purposes.

Order pronounced in the open Court on 30/10/2025.

Sd/-  
[SUBHASH MALGURIA]  
JUDICIAL MEMBER

Sd/-  
[ANADEE NATH MISSHRA]  
ACCOUNTANT MEMBER

DATED: 30/10/2025

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard file

//True Copy//

By order