

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

**BEFORE : SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITAT No. 355/Agr/2025
Assessment Year : 2019-20**

Priyavrat Sharma 54, Ganesh Nagar, Lawyers Colony, Agra 282 005	V	ITO Ward 1(1)(2), Aaykar Bhawan, Sanjay Place, Agra- 282 002 U.P.
PAN : AIVPS1077J		
(Appellant)(Respondent)		

Assessee by	Shri K.K. Jain, Adv.
Department by	Shri Shailendra Srivastava, Sr. D.R.

Date of hearing	15/10/2025
Date of pronouncement	26.11.2025

ORDER

PER : SUNIL KUMAR SINGH, JUDICIAL MEMBER

This appeal has been preferred on behalf of the assessee against the order dated 24.08.2022 passed by Ld. CIT(A)/NFAC, Delhi in appeal No. CIT(A), Agra-1/10066/2020-21 u/s 250 of the Income Tax Act, 1961, herein after referred to as 'the Act', wherein Ld. CIT(A) has dismissed assessee's first appeal against the intimation order dated 15.07.2020 passed u/s. 143(1) of the Act.

2. At the very outset, ld. AR has drawn the attention of the Bench towards assessee's delay condonation application supported with affidavit that this appeal was filed on 18.07.2025 against the impugned order dated 24.08.2022 by a delay of about 999 days, submitting that the assessee was unaware of the date of passing the impugned order. Appellant assessee came to know only on 13.07.2025, when he received message of outstanding demand for the year under consideration. After seeking, legal opinion, this appeal was filed immediately. Delay condonation application is supported with assessee's uncontroverted affidavit, hence the ground of delay are treated sufficient. The delay caused in filing this second appeal stands condoned.

3. The brief facts state that the appellant assessee filed his return of Income for the year under consideration, declaring total Income at Rs. 5,24,040/- and worked out long term capital gain/loss of (-) 2,72,271/- on sale of two plots of land as under.

1) <u>Land 03/12/2018</u>		
Value u/s 50C	1129000	
Sale Consideration Received	900000	
Sale Consideration		900000
Less: Transfer Expenses		<u>0</u>
		900000
Less: indexed Cost		
Cost	1238938	
F.Y. 2004-05	500000/113*280	

	1238938	
		-338938
2) <u>Plot of Land 27/03/2019</u>		
Value u/s 50C	1552000	
Sale Consideration Received	600000	
Sale Consideration	600000	
Less: Transfer Expenses	<u>0</u>	
	600000	
Less: indexed Cost		
Cost	533333	
F.Y. 2002-03200000/105*280		
	533333	
Total Long term Capital Gain		<u>66667</u>
Capital Loss Rs. 272271/- will not be set off		-272271
From any other head of Income		

Further stating that the plots are situated in malinbasti at a distance of 1km from main road, in Nagar Nigam area, Agra, whose 'fair market value' is far below the circle rate. The return was processed u/s 143(1) of the Act, and an adjustment of Rs 11,81,000/- was made by CPC, Bangalore/AO.

4. Aggrieved assessee preferred an appeal before Ld. CIT(A) against the intimation u/s 143(1) of the Act dated 15.07.2020, who dismissed assessee's first appeal.

5. Assessee has filed this appeal on the following grounds:

- 1) Because without giving intimation either in writing or electronic mode, the provisions of section 143(1)(a)(ii) have been wrongly and illegally been invoked by CPC for making adjustment of Rs. 11,81,000/- and the Ld. CIT(A) has erred in dismissing the appeal on different ground.

- 2) Because there was no incorrect claim in the return, the Ld. CIT(A) erred in dismissing the appeal by referring the provisions of section 50C of the Act without considering the provisions of section 143(1)(a)(ii) of the Act.
 - 3) Because the appellant had not accepted stamp valuation and filled appropriate column in ITR for the purpose, the authorities below have erred in adopting the sale value as per 50C of the Act.
 - 4) Because the case law applied is distinguishable on the facts of the present case.
 - 5) Because the ld. CIT(A) failed to consider the judgments of Hon'ble ITAT placed on record which are identical to the facts of the present case.
.....”
6. Pursued the records. Heard ld. Representative for the appellant assessee and ld. Sr. DR for the respondent revenue.
7. The sum and substance of assessee's grievance on the basis of aforesaid grounds, is that ld. CIT(A) has erred in confirming the adjustment of Rs. 11,81,000/- made u/s 143(1) of the Act by CPC, Bangalore/AO, by adopting the sale value of the two plots sold, as per the provision of section 50C of the Act.
8. Ld. AR has submitted that assessee received the first notice dated 06.02.2020 before intimation u/s 143(1) of the Act, but no response could be made due to wide spread global pandemic, Covid-19. The second notice dated 04.06.2020 was not served upon the assessee. Assessee, specifically mentioned in the return that “ While calculating Long Term Capital Gain do not take value of property as

per Stamp Value Authority as the assessee claim that the value adopted for stamp valuation is not accepted.” In such circumstances, the said adjustment could not be made u/s 143(1)(a)(ii) of the Act. Ld. AR has referred order dated 26.02.2020 passed by Visakhapatnam Bench of this Tribunal in ITA No. 152/Viz/2019 for A.Y. 2015-16, M/s. VisakhaJilla Nava NirmanaSamiti& order dated 08.10.2021 passed by Chennai Bench of this Tribunal in ITA No. 320/Chny/2021and S.P. No. 33/Chny/2021 for A.Y. 2015-16 The Ceylon Pentecostal Mission V. The ACIT(CPC), Bangalore, in support of his arguments.

9. Ld. Sr. DR. for the respondent revenue has submitted that the assessee, admittedly furnished the required information in respect of the value of the two plots as per section 50C of the Act also along with alleged sale consideration and further he did not respond to the two notices dated 06.02.2020 and 04.06.2020, which were issued and served upon the assessee before the said adjustment, hence supported the impugned order.

10. It is well established principle of law that intimation u/s 143(1) is not a regular assessment but deals only with summary adjustment. However, the proviso to section 143(1)(a) of the Act mandates an

intimation to be given to the assessee before any proposed adjustment as provided under section 143(1)(a)(i to vi) of the Act. The capital gain has to be computed u/s 48 r/w 50C of the Act. In the case in hand, ld.AO has tried to make prima facie adjustment on the basis of the informations furnished by the assessee in the return. However, the notice dated 06.02.2020, though, served upon assessee, could not be responded by the assessee due to spread of Global pandemic, Covid-19 and the second notice dated 04.06.2020 was never served upon assessee on the e-portal as stated by the assessee.

11. We take notice of the factum that the principles of natural justice are the bed rock, over which, the tribunal system works. Assessee does not seem to have been afforded substantial opportunity of hearing before the said adjustment of Rs. 11,81,000/- made u/s 143(1)(a)(ii) of the Act, by the CPC Bangalore(AO).The issue under consideration requires verification with relevant documents/valuation report. In the totality of facts and circumstances and in the interest of the justice, the matter deserves to be restored to the jurisdictional Assessing officer for examining the issue of Capital Gain on the basis of documentary evidences. The matter is accordingly restored to the file of jurisdictional Assessing officer to examine the issue after

obtaining valuation report and after considering assessee's documentary evidence/submissions. We direct the assessee to be diligent and cooperative in making submissions before the assessing officer. Needless to say that assessing officer shall ensure the compliance of the principles of natural justice. According to the facts of the M/s. Visakha(supra) and the Ceylon(supra), no intimations/notices were issued at all to the concerned assesses before making an adjustment of Capital Gain, whereas, according to the facts of the instant case, admittedly, first notice dated 06.02.2020 was served but remained unresponded by the assessee, hence, the facts of the case in hand are easily distinguishable. The appeal is liable to be allowed for statistical purposes accordingly.

12. In the result, the appeal is allowed for statistical purposes. Impugned order dated 24.08.2022 and intimation u/s 143(1)(a) dated 15.07.2020 are set aside.

Order pronounced in the open court on 26.11.2025.

Sd/-

**(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Sd/-

**(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 26.11.2025

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra