

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA Nos. 1322 & 1323/Bang/2025
Assessment Years : 2020-21 & 2021-22

Shri Azim Hasham Premji, 134, Next to Wipro Corporate Office, Sarjapur Road, Doddakannelli, Bangalore – 560 035. PAN: AIRPP9181G	Vs.	The Deputy Commissioner of Income Tax, Circle – 7(1)(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Sandeep Huligal, Advocate
Revenue by	:	Dr. Thejaswi G V, JCIT-DR

Date of Hearing	:	26-08-2025
Date of Pronouncement	:	14-11-2025

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

These are the appeals filed by the assessee challenging the orders of the NFAC, Delhi dated 11/04/2025 in respect of the A.Ys. 2020-21 and 2021-22. In these appeals the issues raised by the assessee are common and therefore decided to proceed the appeal in ITA No. 1322/Bang/2025 as the lead case. The decision arrived in the appeal relating to A.Y. 2020-21 would apply mutatis mutandis to the appeal relating to A.Y. 2021-22.

2. For the sake of convenience, the grounds raised by the assessee for the A.Y. 2020-21 are extracted below:

“1. That the Order dated 11/04/2025 passed u/s 250 of the Income-tax Act, 1961 ('the Act') vide DIN & Order No: ITBA/NFAC/S/250/2025-26/1075602308(1), (the impugned Order') is erroneous for non-appreciation of the facts and circumstances resulting in misapplication of the provisions of law.

2. That the impugned Order failed to appreciate that no notional rent could at all be assigned to the house properties of the Appellant situated at Coonoor and Mahabaleshwar, which were ready for being let but owing to the peculiarities of their location, remained vacant and were thus eligible for the applicability of the provisions of clause (c) of Section 23(1) of the Act.

3. The grounds are without prejudice to each other.

The Appellant craves leave to add, modify, or withdraw any of the above grounds appeal.”

3. The brief facts of the case are that the assessee filed his return of income on 15/01/2021. The case was selected for complete scrutiny and notice u/s. 143(2) was issued. Subsequently, notice u/s. 142(1) was also issued. The AO on the basis that the assessee had taxable receipts from house property as per the Schedule TDS-2 which is higher than the receipts from the house property shown in ITR, sought for the details about the house properties at Yercaud, Coonoor and Mahabaleshwar for ascertaining the deemed rental value. The assessee had not responded and therefore the AO had proposed to treat the three properties eligible for calculating the deemed rental income as per section 23 of the Act. The AO had notionally estimated the rent at 8% of the cost of the property. Thereafter show cause notice was issued for which the assessee requested to consider the Yercaud property as self occupied property. The AO had estimated the net deemed rental value of the other two properties at Rs. 1,62,932/- and Rs. 1,29,910/-. The said values were added to the income from house property and assessments have been completed. As against the said orders, the assessee filed appeals before the Ld.CIT(A) and contended that the

properties at Coonoor and Mahabaleshwar could not be let out during the previous year owing to the nature and location of the properties and despite reasonable efforts on the part of the assessee, the properties could not be let out during the relevant previous year. The assessee also raised a ground that the AO had not granted the vacancy allowance u/s. 23(1C) of the Act. The assessee also disputed the addition of Rs. 5,07,75,953/- on the ground that the said amount represents the commuted pension on retirement and therefore exempt from tax u/s. 10(10A) of the Act. The Ld.CIT(A) had accepted the ground raised on the commuted pension on retirement whereas not accepted the estimated the net deemed rental value.

4. As against the said orders, the present appeal have been filed before this Tribunal.

5. At the time of hearing, the Ld.AR took us through the replies filed on 16/12/2022 and 14/08/2024 and submitted that in view of the peculiar situation that the properties are situated in hill stations and therefore there is no possibility to get tenants for the whole year. The Ld.AR further submitted that both the places are tourist places and situated not in the main area and therefore no tenants are coming for the said properties. The Ld.AR further submitted that the approach road to the Mahabaleshwar property remains closed during the monsoon because it is in the eco-sensitive western ghat and the Venna lake situated in Mahabaleshwar. Further, it was submitted that in respect of the A.Y. 2021-2, the entire country was under covid19 pandemic and therefore there was no possibility to let out the properties during that period. The Ld.AR also submitted that section 23(1)(c) would apply to the facts of the present case and prayed to allow the appeals.

6. The Ld.DR relied on the orders of the lower authorities and prayed to dismiss the appeals filed by the assessee.

7. We have heard the arguments of both sides and perused the materials available on record.

8. It is not in dispute that the two properties are situated in hilly areas and previously the properties were let out for tenants who are using it as holiday homes for their employees. Further, we notice that subsequently, the properties were not taken out for rent by any of the tenants in view of the fact that there are no demands for occupying the properties by taking the same for rent. There is no dispute that both the properties could not get tenants because of their location. We cannot also equate the properties with the properties in the plain area. Normally, in the hill stations, the tourist will visit only during the summer holidays and they will stay only in the main centre of the city, for their convenience. Further, the properties are house properties and therefore the properties could not be taken up for rent by the tourist who come in a small group. We have also considered the location of the property in Mahabaleshwar and the submission made by the assessee that the said property is situated in an eco-sensitive western ghat and the Venna lake also situated and therefore the approach road to the said place remains closed during monsoon season and therefore no tenant has approached the assessee for letting out the said property. If the properties are situated in another place, definitely there will be demand for letting out the said properties but because of the location of the properties, there will not be any demand. Further, there are lot of disadvantages to the tenants if they took the house for rent and therefore they would not prefer to take up the properties for rent. We have also considered the fact that during the A.Y. 2021-22, the entire world was affected by the covid19 pandemic and lockdowns were imposed and therefore even the tourist could not be able to visit the hill stations and therefore the possibility of letting out the properties during the covid period is not within the control of the assessee.

9. In view of the various facts, disadvantages, we find that the properties could not be let out and in fact there could not be any demand for taking the property for rent. Considering the said facts, the assessment has to be

made u/s. 23(1)(c) of the Act. If the assessment was made u/s. 23(1)(c), the notional rental value of the property for the A.Ys. could be Nil and in that circumstances, the notional rent value estimated by the AO is not correct.

10. In the paper book filed by the assessee, he has enclosed the assessment orders for the A.Y. 2017-18, 2022-23 in which there was no estimated addition made by the AO when the facts and circumstances are similar. Further, in the paper book, the assessee had relied on the order of the ITAT Mumbai Tribunal in the case of Sachin R. Tendulkar vs. DCIT reported in (2018) 96 taxmann.com 253 and the order of the Ahmedabad Bench of this Tribunal in the case of DCIT vs. Dhaval D. Patel reported in (2022) 145 taxmann.com 20 in which the similar issue was considered by the Tribunal and granted the relief for the reason that the properties remained vacant throughout the year and therefore the vacancy allowance u/s. 23(1)(c) would be given to the assessee. We are of the view that the principles would apply to the facts of the case since the assessee had demonstrated that the properties could not be let out. Considering the said principles laid down by the Mumbai Tribunal as well as the Ahmedabad Tribunal and considering the peculiar facts of the case involved in the present appeals and also considering the reasons averred by the assessee in their replies dated 16/12/2022 and 14/08/2024, we are inclined to allow the appeals filed by the assessee.

11. In the result, both the appeals filed by the assessee are allowed.
Order pronounced in the open court on 14th November, 2025.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 14th November, 2025.
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore
6. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore