

**IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH MUMBAI**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No. 5234/Mum/2025
(Assessment Year: 2011-12)**

Vanraj Ranchhoddas Merchant (through Legal heir Harshit Merchant) 211/19, 2 nd Floor, Bharti Bhavan, P. D. Mello Road, Fort, Mumbai-400 001	Vs.	ITO-30(1)(1), Kautilya Bhavan, Block BKC, Gilban Area, Bandra (East), Mumbai-400 051
PAN/GIR No. AAAPM4744R		
(Applicant)		(Respondent)

Assessee by	Ms. Kinjal Bhutta, Ld. AR
Revenue by	Ms. Kavitha Kaushik, Ld. DR

Date of Hearing	11.12.2025
Date of Pronouncement	29.12.2025

आदेश / ORDER

PER MAKARAND VASANT MAHADEOKAR, AM:

This appeal is filed by the assessee, through the legal heir against the order passed by the Additional/Joint Commissioner of Income Tax (Appeals) Panchkula from the office of Commissioner of Income Tax (Appeals)[hereinafter referred to as “CIT(A)”], dated 19.06.2025, passed under section 250 of the



Income-tax Act, 1961 [hereinafter referred to as “the Act”] for Assessment Year 2011–12. The said appellate order arises out of the assessment order passed by the Income Tax Officer, Ward 17(3)(5), Mumbai [hereinafter referred to as “Assessing Officer or AO”] dated 27.03.2015, passed under section 143(3) read with section 147 of the Act.

2. The brief facts of the case are that the assessee, an individual, filed his return of income for A.Y. 2011–12 on 30.06.2011 declaring total income of Rs. 4,70,660/-, which was processed under section 143(1) of the Act. Subsequently, based on information received from the Income Tax Officer (International Taxation)-4(1), Mumbai, the Assessing Officer recorded reasons to believe that income chargeable to tax had escaped assessment. The basis of such belief was that the assessee had sold his rights in immovable property for a consideration of Rs. 28,00,000/- vide registered deed dated 09.01.2010, whereas the stamp duty valuation of the said property was Rs. 1,11,07,000/- as on the date of registration i.e. on 03.08.2010. Accordingly, notice under section 148 of the Act was issued on 07.02.2014.

3. Before the Assessing Officer, it was submitted that the assessee was holding 20 percent undivided share along with his four brothers in an ancestral family trust property situated at Colaba, Mumbai, since 10.02.1977. Out of his 20 percent share, the assessee assigned 10 percent undivided share in the said



property to his nephew, Shri Nikhil J. Merchant, for a consideration of Rs. 28,00,000/-, vide registered deed dated 09.01.2010. The Assessee further submitted that the market value for stamp duty purpose of the entire property was Rs.1,11,07,000/- and therefore 10% of the same works out to be Rs.11,10,700/- and the property was assigned at much higher value of Rs.28,00,000/-. The assessee also claimed that the entire consideration of Rs. 28,00,000/- was invested in purchase of a residential property at Ahmedabad and accordingly claimed exemption under section 54F of the Act.

4. The information was called for from the Collector of Stamps, Mumbai by issuance of notice u/s 133(6) of the Act. The Collector of Stamps, in response to the notice u/s 133(6), intimated that the market value of the entire property was Rs. 11,10,67,159/-, and 10 percent thereof amounted to Rs. 1,11,06,716/- and the stamp duty at the rate of 5 percent amounting to Rs. 5,55,350/- was paid by the assignee, Shri Nikhil J. Merchant, on 05.08.2010.

5. The Assessing Officer issued a show cause notice stating as to why provisions of section 50C of the Act should not be invoked and value of Rs.1,11,06,716/- should not be deemed to be the value of consideration.

6. The assessee contended that what was transferred was not land or building, but only rights in land and building, and



therefore section 50C was not applicable. It was submitted that section 50C is a deeming provision which applies only to capital assets being land or building or both, and cannot be extended to transfer of rights therein. Reliance was placed on the decision of the ITAT, Mumbai in the case of Anil G. Puranik v. ITO. It was also submitted that the stamp duty valuation adopted by the Collector of Stamps could not be considered as fair market value for income-tax purposes, as the property was encumbered and occupied by tenants, thereby depressing its real market value. The assessee also requested that the matter be referred to the Departmental Valuation Officer for determination of fair market value. The matter was referred to the valuation cell on 31.10.2014. The DVO, vide letter No. DVO-I/MUM/CGT/744/2014-15/1597 dated 24.03.2015, informed that the valuation was under progress and the report could not be furnished before 31.03.2015. In absence of the DVO's report, the Assessing Officer proceeded to adopt the value determined by the Stamp Valuation Authority.

7. The Assessing Officer rejected the contentions of the assessee and held that the assignment of 10 percent undivided share amounted to transfer of property itself and not merely transfer of rights. The Assessing Officer held that the decision relied upon by the assessee in the case of Anil G. Puranik was distinguishable on facts and that section 50C was squarely applicable. Accordingly, the Assessing Officer computed long-



term capital gains at Rs. 51,37,000/- after allowing exemption under section 54F of Rs. 31,70,000/-, and completed the assessment under section 143(3) read with section 147 of the Act. Penalty proceedings under section 271(1)(c) were also initiated.

8. The assessee preferred an appeal before the CIT(A). Before the Ld. CIT(A), the assessee reiterated his submissions regarding non-applicability of section 50C and also raised objections to the reopening of assessment.

9. The Ld. CIT(A) observed that although section 50C refers to transfer of a capital asset being land or building or both, the scope of the provision has been expansively interpreted by the jurisdictional Bombay High Court. Placing reliance on the decision of the Hon'ble Bombay High Court in Vidharbha Veneer Industries Ltd. (In Liquidation) v. ITO (ITA No. 34 of 2022), the Ld. CIT(A) held that section 50C is applicable even to transferable leasehold or similar rights, provided such rights form part of a capital asset. The Ld. CIT(A) noted that the Hon'ble High Court had adopted a broader interpretation of the statutory language and had not approved the restrictive view earlier taken by certain coordinate benches, including in the case of Atul G. Puranik. Following the binding jurisdictional precedent, the Ld. CIT(A) rejected the assessee's contention that section 50C was inapplicable merely because the transfer was of rights and not of land or building per se.



10. The Ld. CIT(A) further held that once the Assessing Officer had made a reference to the Departmental Valuation Officer for determination of fair market value, such reference was in accordance with law and constituted a fair exercise of statutory powers. It was observed that the valuation report of the DVO, once obtained, could not be disregarded unless it was shown to be perverse or legally untenable. Since the DVO had determined the value of the assessee's 10 percent undivided share at Rs. 80,04,300/-, which was lower than the stamp duty valuation, the Ld. CIT(A) held that such lower value deserved to be adopted for the purpose of section 50C, in accordance with settled judicial principles.

11. Accordingly, the Ld. CIT(A) partly allowed the appeal and directed the Assessing Officer to adopt Rs. 80,04,300/- as the full value of consideration for computing long-term capital gains, instead of Rs. 1,11,07,000/-, and to recompute the capital gains after allowing exemption under section 54F in accordance with law.

12. Aggrieved by the order of CIT(A) the assessee is in appeal before us raising following grounds of appeal:

1. *The Ld. Commissioner of Income Tax (Appeal) – NFAC erred in confirming the action of the Assessing Officer of reopening of assessment u/s. 147 of the Income Tax Act, 1961. That the reopening of the assessment is bad in law and ought to be quashed. (Additional Ground).*
2. *The Ld. Commissioner of Income Tax (Appeal) – NFAC erred in confirming the addition u/s. 50C of the Income Tax Act, 1961 to the*



extent of Rs. 80,04,300/-, without appreciating that the addition is against the provisions of law and ought to be deleted.

3. *Without Prejudice to the above ground, The Ld. Commissioner of Income Tax (Appeal) – NFAC erred in not giving deduction of indexed cost of acquisition as determined by the DVO from the of the capital gains working.*
4. *The appellant craves to leave, add, amend or alter the grounds of appeal.*

13. During the course of hearing, the learned Authorised Representative (AR) of the assessee invited our attention to the notice issued under section 148 of the Act and submitted that the same was issued in a casual manner, without even mentioning the jurisdiction of the concerned Commissioner and merely on the basis of borrowed satisfaction. However, the learned Authorised Representative fairly submitted that she does not wish to press the first legal ground challenging the validity of reopening under section 147 of the Act.

14. On the merits, the learned AR submitted that the assessee had not transferred land or building or both. What was transferred under the registered assignment deed was only the *life interest* of the assessee in the trust properties. The deed repeatedly uses the expressions “life interest”, “to have and to hold the same” and “during his lifetime”, which clearly establishes that the ownership of the land and building continued to vest in the trust and was never conveyed by the assessee.

15. The AR invited attention to pages 91 and 92 of the paper book containing the original assignment deed. It was pointed out



that the operative clauses specifically record that the Assignor “doth hereby assign and transfer all that the life interest of the Assignor” and not the corpus of the property. The words “to have and to hold” are expressly qualified by reference to the life interest alone.

16. The learned AR contended that section 50C is a deeming provision which can be applied strictly only in cases of transfer of land or building or both. The section does not extend to transfer of rights in land, life interest, or any other limited interest. Being a deeming fiction, section 50C cannot be enlarged beyond its express statutory language.

17. Reliance was placed on the judgment of the Hon’ble High Court of Karnataka in *V.S. Chandrashekar v. ACIT* [2021] 129 taxmann.com 273 / 432 ITR 330, wherein it has been categorically held that section 50C does not apply to transfer of rights in land and applies only to transfer of land or building. It was emphasized that the Hon’ble High Court has underscored the distinction between “immovable property” and “land or building” and has held that taxing provisions must be construed strictly.

18. The AR reiterated that the Ld. CIT(A) erred in relying on the jurisdictional High Court decision in *Vidarbha Veneer Industries Ltd.* (ITA No. 34 of 2022). It was contended that the said case dealt with transfer of leasehold rights which were transferable and inheritable in nature, whereas in the present case the



assessee transferred only a personal life interest, which is neither perpetual nor equivalent to ownership or leasehold rights.

19. Attention was drawn to page 34 of the paper book, being the DVO's report. It was submitted that even the DVO has categorically acknowledged that the assessee held only an undivided share in a family property and that such share could not be freely sold or transferred to outsiders. On this basis, the DVO himself applied a discount of 20 percent. The AR submitted that the DVO's own reasoning proceeds on the premise that the assessee did not hold an independent and marketable interest in land or building. The AR emphasized that only the income-yielding life interest was assigned, which itself extinguished upon the death of the assessee. In view of the above, the learned AR submitted that the addition sustained under section 50C is unsustainable in law and on facts and deserves to be deleted in entirety.

20. The learned Departmental Representative, on the other hand, relied upon the orders of the lower authorities.

21. We have carefully considered the rival submissions, examined the orders of the lower authorities and perused the material placed on record, including the registered assignment deeds placed at page nos. 40, 91 and 92 of the paper book, the report of the Departmental Valuation Officer placed at page no.



34 of the paper book, and the judicial precedents relied upon by both the parties.

22. At the outset, it is noted that during the course of hearing, the learned Authorized Representative of the assessee fairly submitted that he does not wish to press the first legal ground challenging the validity of reopening under section 147 of the Income-tax Act, 1961. In view of the said submission, the ground relating to reopening is dismissed as not pressed.

23. The substantive issue which survives for our adjudication is whether, having regard to the true legal nature of the interest transferred by the assessee, the provisions of section 50C of the Act could be invoked, and whether the Ld. CIT(A) was justified in sustaining the addition of Rs. 80,04,300/-.

24. On a careful examination of the registered assignment deed, particularly the original deed placed at page nos. 91 and 92 of the paper book, we find that the assessee has not transferred land or building in his own right. The operative clauses of the deed consistently describe the subject matter of transfer as the life interest of the assessee in the trust property, employing expressions such as “all that the life interest” and “to have and to hold the same” in relation to such life interest alone. The deed does not convey the corpus of the immovable property nor does it divest the trust of its ownership in the land or building. The ownership of the immovable property continued to vest in the



trust at all material times, and the assessee merely assigned a limited, determinable and beneficial interest arising therefrom.

25. In law, a life interest represents a limited estate, the duration of which is co-terminous with the life of the holder and which stands extinguished upon his death, as recognised under the scheme of the Transfer of Property Act, 1882, particularly sections 6(a) and 6(d), which prohibit transfer of a mere right to future maintenance or a right dependent upon a personal qualification. Such an interest does not confer absolute ownership in the immovable property, nor does it vest in the holder the power to deal with the corpus of the property as an owner, the latter being a necessary incident of ownership under property law. The life tenant is entitled only to use, occupy or enjoy the income or usufruct of the property during his lifetime, subject to an overriding obligation to preserve the property for the benefit of the remainder men. This principle is statutorily reflected in sections 108(B)(m) and 108(B)(o) of the Transfer of Property Act, 1882, which, though framed in the context of leases, embody the broader doctrine that a person in limited possession cannot commit acts destructive or permanently injurious to the property. Where such life interest arises under a trust arrangement, the position is even more restrictive. Under the Indian Trusts Act, 1882, the legal title vests in the trustee, and the beneficiary's enjoyment is circumscribed by fiduciary and preservative obligations imposed on the trustee for the benefit of



all beneficiaries, including remainder men. The beneficiary holding a life interest acquires only a beneficial interest and not ownership of the trust property. Further, any alienation by a life tenant, even if contractually permissible, cannot extend beyond the lifetime of the life tenant nor can it prejudice the vested or contingent rights of the remainder men, a principle flowing from sections 6(a) and 8 of the Transfer of Property Act, read with sections 56 and 58 of the Indian Trusts Act, 1882, which protect the interests of persons beneficially entitled to the trust property in succession.

26. This legal character of the assessee's interest is also reflected in the valuation record itself. The Departmental Valuation Officer has proceeded on the footing that the assessee was holding only an undivided share in a family property and has specifically recorded that such interest could not be freely sold or transferred to outsiders, applying a discount on account of such restriction. The DVO's report thus corroborates the conclusion that the assessee did not hold an independently marketable or freely transferable estate in land or building.

27. At this stage, it becomes necessary to distinguish the assessee's life interest from leasehold rights, which formed the subject matter of consideration in certain judicial precedents relied upon by the Revenue. A leasehold interest, governed by section 105 of the Transfer of Property Act, 1882, is a transfer of a right to enjoy immovable property for a certain time or in



perpetuity in consideration of a price paid or promised. A lease creates a proprietary interest in immovable property, though limited in duration. By virtue of section 108(j) of the Act, a leasehold interest is, unless expressly restricted, assignable, sub-leasable and mortgageable, and is heritable for the unexpired term. A long-term leasehold, particularly in the context of industrial land allotted by statutory authorities, is time-certain, commercially exploitable and, for practical purposes, often operates as a near-equivalent of ownership during the subsistence of the lease.

28. A life interest, on the other hand, operates in a fundamentally different legal plane. It is not a contractual or commercial estate but a succession-oriented and equitable arrangement, intended to balance enjoyment by one person with preservation of the property for another. It is inherently determinable, non-heritable and non-alienable beyond the lifetime of the holder. The juristic incidents of a life interest are thus materially distinct from those of a leasehold estate, and the two cannot be equated merely because both relate to immovable property.

29. Section 50C is a deeming provision which substitutes the stamp duty value as the full value of consideration where the capital asset transferred is land or building or both. It is a settled principle of interpretation that a deeming fiction must be strictly construed and confined to the purpose for which it is enacted.



The legislature itself has, in several provisions of the Act, consciously distinguished between transfer of land or building and transfer of rights or interests therein, as evident from provisions such as section 54D which expressly refers to “land or building or any right in land or building”. The absence of similar language in section 50C indicates that the provision is intended to operate in respect of transfer of land or building as such, and not every form of interest connected with immovable property.

30. The learned AR has relied upon the judgment of the Hon’ble Karnataka High Court in V.S. Chandrashekar v. ACIT [2021] 129 taxmann.com 273 / 432 ITR 330. The Hon’ble High Court, after examining the scope of section 50C, held as under:

11. Thus, from perusal of the aforesaid provisions, it is axiomatic that Explanation 1 to section 2(47) uses the term 'immovable property' whereas, Section 50C uses the expression 'land' instead of immovable property. It is also pertinent to mention that wherever the legislature intended to expand the meaning of the land to include rights or interests in land, it has said so specifically viz., Section 35(l)(a), Section 54G(1), Section 54GA(1) and Section 269UA(d) and Explanation to Section 155(5A). Thus, Section 50C applies only in case of a transferor of land which in the instant case is M/s Namaste Exports and not the assessee who was only a consenting party and not a transferor/co-owner of the property. Undoubtedly, the assessee had certain rights under the agreement, however, from the clear plain and unambiguous language employed in Section 50C, it is evident that the same does not apply to a case of rights in land. It is equally well settled rule of statutory interpretation with regard to taxing statute that an assessee cannot be taxed without clear words for that purpose and every Act of the Parliament has to be read as per its natural construction of words. For the aforementioned reasons, in our considered opinion, the provisions of Section 50(c) are not applicable to the case of the assessee. In the result, the first substantial question of law is answered in the negative and in favour of the assessee.



31. The ratio laid down in the above judgment clearly supports the proposition that section 50C cannot be invoked where what is transferred is only a limited right or interest and not land or building itself.

32. The Revenue has relied upon the judgment of the Hon'ble Bombay High Court, Nagpur Bench, in Vidarbha Veneer Industries Ltd. (In Liquidation) v. ITO (ITA No. 34 of 2022). In that case, the Hon'ble High Court was concerned with transfer of long-term leasehold rights in industrial land allotted by MIDC and held that the manner in which land is held, namely leasehold, would not exclude the applicability of section 50C. The Hon'ble High Court proceeded on the premise that the assessee therein was holding land under a recognised mode of transfer, albeit under a lease. The relevant paras are reproduced hereunder for the sake of clarity:

6. The expression used in Section 50C of the IT Act is 'consideration received or accruing as a result of transfer of a capital asset, being land or building or both'. This will have to be related to the definition of 'capital asset', as occurring in Section 2(14) of the IT Act. A perusal of the definition of 'Capital Asset' as contained in Section 2(14) of the IT Act would indicate, that it includes property of any kind, "held by an assessee". What is material to note is, that the expression is "held by an assessee" and not owned by an assessee. Insofar as the immovable property, i.e. land or building is concerned, there are number of ways, in which it can be held. The holding can be either as an owner, lessee, sub-lessee, allottee, tenant, licensee, gratuitous licensee or any other mode, permissible or recognized by law. The expression "held by an assessee" therefore does not restrict the manner in which the land or building can be held. The holding of land, is merely a method in which rights to the land, can be held or acquired, by a person. That cannot be in any manner equated with land or building, but rather, would be a



species of the right to hold it, which as indicated above, are of multiple nature.

7. We, therefore, find that merely because the land was originally allotted by the MIDC by way of a lease to the predecessor of the appellant, who in turn has received the same by way of an assignment, that being one of the modes of transfer, of land or building, the mere use of a particular mode of transfer, cannot create any exception vis-a-vis the holding of the land or building by the Assesee. The word 'transfer' as used in Section 50C(1) of the IT Act, also cannot be used in a restricted sense and will have to be given widest amplitude, considering the nature and purpose of the section and thus would include all modes and methods of transfer as are permissible and recognizable in law.

33. Even assuming that the ratio of Vidarbha Veneer Industries Ltd. permits application of section 50C on bare hold rights, the factual matrix of the present case stands on a materially different footing. The assessee herein did not hold a leasehold estate or any time-certain, commercially exploitable interest in land or building. What was assigned was only a life interest arising under a trust, coupled with an undivided share, which is determinable, extinguishable upon death and incapable of conferring dominion over the corpus of the property. This distinction is not peripheral but goes to the root of the applicability of section 50C.

34. Further, the mere fact that the transfer in the present case has been effected by way of an assignment does not alter the legal position. Assignment is only a recognised mode of transfer whereby the assignor conveys to the assignee such right, title or interest as the assignor himself possesses, and no more. By virtue of section 8 of the Transfer of Property Act, 1882, an assignment cannot enlarge or elevate the nature of the interest



transferred beyond its inherent legal character. Accordingly, where the subject matter of assignment is only a life interest, the assignee merely steps into the shoes of the assignor and acquires the same limited, determinable and non-absolute interest, subject to identical restrictions and termination upon death. The assignment, therefore, does not operate as a transfer of the land or building itself, nor does it convert the transaction into one involving transfer of land or building merely by reason of the form or nomenclature adopted. This aspect also distinguishes the present case from cases involving assignment of leasehold rights, where the lease itself constitutes a time-certain proprietary estate in land. In the present case, the assignment remains confined to a life interest under a trust and does not partake the character of transfer of land or building.

35. Once the true legal nature of the interest transferred is ascertained from the contemporaneous registered instruments and corroborated by the valuation record itself, the applicability of section 50C has necessarily to be examined with reference to the actual interest transferred and not merely with reference to the character of the underlying immovable property. On the peculiar facts of the present case, the assignment of a life interest under a trust does not partake the character of transfer of land or building so as to attract the deeming fiction contained in section 50C.



36. In view of the foregoing discussion, we hold that the subject matter of transfer in the present case is a limited and determinable life interest coupled with an undivided share and not land or building or both. Consequently, the invocation of section 50C in the facts of the present case is not warranted. The Ld. CIT(A), in sustaining the addition under section 50C, did not adequately appreciate the true legal nature of the interest transferred by the assessee.

37. Accordingly, the addition of Rs. 80,04,300/- sustained under section 50C of the Act is directed to be deleted. The grounds raised by the assessee on merits are allowed.

38. In the result the appeal of the assessee is partly allowed.

Order pronounced in the open court on 29.12.2025.

Sd/-
(BEENA PILLAI)
JUDICIAL MEMBER

Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai, Dated 29/12/2025
 Dhananjay, SPS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//



ITA No. 5234/Mum/2025
Vanraj Ranchhoddas Merchant

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उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai