INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI

BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER AND SHRI VIMAL KUMAR, JUDICIAL MEMBER

ITA No.677/DEL/2025
Assessment Year 2019-20

CK International Pvt. Ltd., A 265 -266, Okhla Industrial Area, Phase-I, New Delhi **PAN No. AABCC3169L**	Vs.	Income Tax Officer, Ward 6(1), New Delhi
(Appellant)		**(Respondent)**

Assessee by:	Shri Satyen Sethi & A.T. Panda, Advs.
Department by:	Shri Om Prakash, Sr. DR
Date of Hearing:	03.11.2025
Date of pronouncement:	07.01.2026

<u>O R D E R</u>

<u>PER VIMAL KUMAR, JUDICIAL MEMBER:</u>

The appeal filed by the assessee is against order dated 30.12.2024 of Learned Commissioner of Income Tax (Appeals), Mumbai [hereinafter referred to as 'Ld. CIT(A)] under Section 250 of the Income-Tax Act, 1961 (hereinafter referred to as 'the Act') arising out of order dated 07.06.2020 of Learned Assessing Officer/Assessment Unit, CPC, Bangaluru (hereinafter referred to as "Ld. AO") passed under section 143(1) of the Act for assessment year 2019-20.

2. Brief facts of the case are that assessee filed return of income on 25.07.2020 declaring total income of Rs.12,15,528/-. Order passed under Section 143(1) of the Act dated 27.10.2020 was passed by Ld. AO making adjustment of Rs.14,68,000/- under the head "Long Term Capital Gains" on account of adopting stamp duty value instead of sales consideration of immoveable property sold.

3. Against order dated 06.07.2020 of Ld. AO, the appellant/assessee filed appeal before Ld. CIT(A) which was partly allowed vide order dated 30.12.2024.

4. Being aggrieved, the appellant/assessee filed present appeal with following grounds of appeal:

> "1. That on the facts and circumstances of the case and in law, the Joint Commissioner of Income tax (Appeal)-6, Mumbai ["the JCIT(A)"] has erred in upholding the adjustment of Rs.3,46,97,520/- made under section 143(1) of the Income tax Act, 1961 ("the Act") by invoking the deeming provisions of section 50C of the Act.
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> 2 Without prejudice, on the facts & circumstances of the case and in law, the JCIT(A) has erred in not appreciating that section 50C was not attracted in the facts of the present case.
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> 3. That on the facts & circumstances of the case and in law, the JCIT(A) has erred in not appreciating that Industrial Unit No.22, Ecotech Extn-1, Sector Ecotech-1, Greater Noida was sold at the prevailing market value, as evident

from sale instance of Industrial Unit No.85, Block-Udyaog Kendra Extn-II, Sector Ecotech-III, Greater Noida.

4. That on the facts & circumstances of the case and in law, the JCIT(A) has erred in directing the Assessing Officer to refer valuation of Industrial Unit No.22, Ecotech Extn-I, Sector Ecotech-I, Greater Noida to DVO and adopt the same to compute income under section 56(2)(vii)(b) of the Act.

5. That on the facts & circumstances of the case and in law, the JCIT(A) has erred in directing the Assessing Officer to compute income under section 56(2)(vii) (b) of the Act.

6. That on the facts & circumstances of the case and in law, the JCIT(A) has erred in not appreciating that the scope of disallowance/adjustment under section 143(1) is very limited. An issue which is debatable outside the scope of purview of section 143(1) of the Act."

5. Learned Authorized Representative for the appellant/assessee submitted that Ld. CIT(A) failed to appreciate that the addition of capital gain has a beyond scope of section 143(1) of the Act. Addition of Rs.3,46,97,520/- on account of capital gain is contrary to section 50C of the Act. Reliance was placed on order dated 17.05.2023 in ITA No,2200/Del/2022 in the case of Shankar Dayal HUF vs. ADIT. Order dated 12.03.2025 in ITA No.5292/Del/2025 in the case of Amit Sabharwal, Delhi wherein it was held that adjustment under Section 50C of the Act is beyond the scope of section 143(1) of the Act:

“6. We have heard both parties at length and have perused the material available on record. The Co-ordinate Bench of Tribunal in the case of Inder Jeet Malik (supra) has held as under:

> “5. I have heard the parties and perused the materials on record. The basic issue requiring consideration is, whether the addition made under section 50C(1) can fall within the ambit of adjustments provided under section 143(1)(a) of the Act. It is noticed; the following adjustments can be made while processing the return under section 143(1) of the Act:
>
> "Assessment.
>
> 143. (1) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, such return shall be processed in the following manner, namely:-- (a) the total income or loss shall be computed after making the following adjustments, namely: -
>
> (i) any arithmetical error in the return;
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> (ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;
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> (iii) disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139;
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> (iv) disallowance of expenditure 68[or increase in income] indicated in the audit report but not taken into account in computing the total income in the return;
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> (v) disallowance of deduction claimed under 69[section 10AA or under any of the provisions of Chapter VI-A under the heading "C.—
>
> Deductions in respect of certain incomes", if the return is furnished beyond the due date specified under sub-section (1) of section 139; or ITA No. 1024/Del./2022 AY: 2019-20

(vi) addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return:"

6. No doubt, in the present case adjustment has been made under subclause (ii) to section 143(1)(a). The expression "incorrect claim apparent from any information in the return" has been explained under Explanation to section 143(1)(a) of the Act and reads as under:

"Explanation- For the purposes of this sub-section- (a) "an incorrect claim apparent from any information in the return" shall mean a claim, on the basis of an entry, in the return-

(i) of an item, which is inconsistent with another entry of the same or some other item in such return;

(ii) in respect of which the information required to be furnished under this Act to substantiate such entry has not been so furnished; or

(iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

7. On a conjoint reading of section 143(1)(a)(ii) along with Explanation it becomes very much clear that the addition under section 50C(1) cannot be in the nature of incorrect claim as provided in Explanation to section 143(1)(a)(ii) of the Act. This is so because, section 50C has to be read as a whole and cannot be restricted to sub-section (1) alone. It is fairly well settled; a deeming provision has to be taken to its logical end. Undoubtedly, section 50C is a deeming provision. Though, sub-section (1) of section 50C ITA No. 1024/Del./2022 AY: 2019-20 provides for substituting the stamp duty value as deemed sale consideration in place of the declared sale consideration, however, sub-section (2) carves out an exception by providing that if the assessee objects to the stamp duty value, the valuation has to be referred to the Department

> Valuation Officer (DVO) and in case the value determined by the DVO is lower than the stamp duty value, the value determined by DVO has to be considered for computing capital gain in terms with sub-section (3) of section 50C. Therefore, sub-section (1) to section 50C cannot be considered in isolation. By making an adjustment of the nature contemplated under sub- section (1) to section 50C, that too, by CPC, the Department takes away a valuable statutory right given to the assessee to object to the value determined by stamp valuation authority.
>
> 8. Therefore, such type of adjustment, in my considered opinion, cannot be made under section 143(1)(a) of the Act. This is so because, at the stage of processing of return under section 143(1)(a), if such an adjustment is made, the assessee does not get an opportunity to object, as per section 50C(2) of the Act. More so, when conditions of the 1st and 2nd proviso to section 143(1)(a) are not complied. Therefore, I hold that the addition made by CPC ITA No. 1024/Del./2022 AY: 2019-20 under section 50C(1) of the Act by way of adjustment under section 143(1)(a)(ii) is unsustainable. Accordingly, I delete the addition."

7. We are of the considered view that this case is squarely covered by the decision of the Co-ordinate Bench of Tribunal in the case of Inder Jeet Malik (supra). We therefore, following the reasoning given by the Coordinate Bench in the case of Inder Jeet Malik (supra), hold that the no adjustment/addition under section 50C of the Act can be made while processing the ITR under section 143(1) of the Act. Accordingly, we delete the addition of Rs.36,51,250/-."

5.1 Reliance was placed on the orders dated 29.09.2025 in ITA No.1785/Del/2025 in the case of Rajesh Kumar Sharma vs, National Faceless Appeal Centre (NFAC), order dated 18.06.2024 in ITA No.484/Del/2024 in the case of Shivdeep Tyagi and order

dated 17.10.2025 in ITA No.2412/Del/2018 in the case of Neha Gupta Vs. ITO.

6. Learned Departmental Representative submitted that the procedural lapses did not cause any prejudice to the assessee.

7. From examination of record in light of aforesaid rival contentions, it is crystal clear that Ld. CIT(A) while deciding ground nos. 2 to 12 in para nos. 5.2 observed that the appellant has submitted that the addition has been made by the Ld. AO in respect of the difference of higher stamp duty value and consideration paid without referring the matter to the DVO and has submitted that the Ld. AO was duty bound to refer the matter to DVO in accordance with the decisions of the jurisdictional High Court of Calcutta in the case of Sunil Kumar Agarwal vs. CIT [2014] 272 CTR 332 (Cal). In the said decision, the Hon'ble High Court has held that "As a matter of course, in all such cases, the AO should give an option to the assessee to have the valuation made by the DVO. The valuation made by the DVO is required to avoid miscarriage of justice. The legislature did not intend that the capital gain should be fixed merely on the basis of the valuation to be made by the District Sub Registrar for the purpose of stamp duty. The legislature has taken care to

provide adequate machinery to give a fair treatment to the citizen/taxpayer. There is no reason why the machinery provided by the legislature should not be used and the benefit thereof should be refused. Even in a case where no such prayer, the AO discharging a quasi judicial function, has the bounden duty to act fairly and to give a fair treatment by giving him an option to follow the course provided by law."

8. A Co-ordinate Bench in order dated 12.03.2025 in ITA No.5292/Del/2025 titled as "Amit Sabharwal vs. ACIT" has held that no adjustment/addition under Section 50C of the Act can be made while processing ITR under Section 143(1) of the Act.

9. In view of above material facts, by following the principles of judicial precedents, it is held that the adjustment made by Ld. AO under Section 50C of the Act while processing Income Tax Return under Section 143(1) of the Act is illegal. Accordingly, grounds of appeal nos. 1 to 6 are accepted.

10. In the result, the appeal of filed by the assessee is allowed.

Order pronounced in the open court on 07th January, 2026.

Sd/- (S RIFAUR RAHMAN) **ACCOUNTANT MEMBER**	**Sd/- (VIMAL KUMAR)** **JUDICIAL MEMBER**

Dated: 07/01/2026
Mohan Lal

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi