

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No.475/Ind/2025
Assessment Year:2012-13

Nayana Jayesh Patel, 29/5, South Tukoganj, Indore (Assessee/Appellant)	<u>बनाम/</u> Vs.	Assessing Officer (Revenue/Respondent)
PAN: AFYPP2075H		
Assessee by	Shri Sudhir Padliya, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	12.01.2026	
Date of Pronouncement	22.01.2026	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first-appeal dated 29.07.2024 passed by learned Commissioner of Income-Tax (Appeals)-National Faceless Appeal Centre, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 19.03.2022 passed by learned National Faceless Assessment Centre, Delhi ["AO"] u/s 147 r.w.s. 263 & 144B of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2012-13, the assessee has filed this appeal on following grounds:

"1. That Id. cit(a) has erred in not following the directions of honorable indore bench of ITAT vide order dated 21.05.2024 in connection with considering the deemed sale value of properties under consideration as per the guide line rates applicable on the basis of rates notified by state government for the year of execution of sale agreement between purchasers and seller for the rates applicable on non-agricultural land.

2. That any other ground or grounds which 2 may either be amended or raised on or before the date of hearing

3. That Id CIT(A) has erred in confirming the action of Id. a.o. for invoking the provisions grounds of appeal of section 50c of the act ignoring the provisions of amended section 50c with proviso and considered the deemed sale 3 proceed of properties at rs. 46026000 as against registered transaction value of rs. 16000000 and consequently has erred in computing deemed long term capital gain of Rs. 33594875 instead of disclosed by the assessee of rs. 12431125

4. That Id. CIT(A) has erred in confirming the action of Id. a.o. after invoking the provisions of section 50c of the act and has 4. computed taxable long-term capital gain of rs. 18594875 as against computed by the assessee and accepted in original assessment at rs. nil.

5. That Id. CIT(A) has erred in not considering the provisions of first proviso to section 50c of the act properly and also without considering the supporting documents submitted by assessee in support of application of first proviso to section 50c in her case but has held that in absence of proper supporting applicability of first proviso to section 50c could not be ascertained in the case of the assessee and consequently confirmed the action of Id. A.O."

2. The registry has informed that the present appeal has been filed on 24.05.2025 against the impugned order dated 29.07.2024 after expiry of statutory period and hence time-barred. Ld. AR for assessee submitted that the assessee has filed an application/affidavit for condonation of delay; the same is scanned and re-produced for an immediate reference:



मध्य प्रदेश MADHYA PRADESH

CW 563781

AFFIDAVIT

I, Nayana Patel w/o Jayesh Patel r/o 29/5 South Tukoganj, Indore declare under oath, as under:

- (1) That I have filed an appeal against assessment completed u/s 147 r.w.s. 263 and 144B dated 19.03.2022, before National Faceless Appeal Center, Delhi of Income Tax which has been disposed off on 29.07.2024.
- (2) Order passed u/s 250 on 29.07.2024 has been claimed by the Income Tax Department to have been sent to e-mail address registered with Department.
- (3) I was not aware of the facts regarding passing of order by NFAC on 29.07.2024, as the same has not been reached to mail box to which the same was mailed by the Department.
- (4) Later-on through Jurisdictional Assessing Officer communication I came to know on 01.05.2025 that appeal filed by me has been decided on 29.07.2024. Immediately I logged into my e-filing account with Income Tax Department and download the decision passed on 29.07.2024.
- (5) On 01.05.2025 I came to know about the decision of appeal for which I was not satisfied with the decision of NFAC. As such I decided to further carry on the matter before Honorable Income Tax Appellate Tribunal by filing the further appeal.
- (6) As per provisions of Income Tax Act appeal before ITAT can be submitted within 60 days of the receipt of appeal order against which further appeal is to be filed. As such limitation period of 60 days would be expiring on 29.06.2025, thus I have the right to file appeal before Honorable Income Tax Appellate Tribunal till 29.06.2025.
- (7) I, have doubt that considering the date of deemed service of order as 30.07.2024 by e-mailing the decision to the registered e-mail address, the filing of appeal now may be treated beyond the time and considered as delayed filing. As such in anticipation of such situation I am praying to Honorable Bench of Income Tax Appellate Tribunal to condone the delay in filing the appeal for the period from 30.09.2024 till the date of filing of appeal on 15.05.2025 considering the situation due to which I could not present the appeal within stipulated time, which was beyond my control and no mala fide intention in not filing the appeal within time.

That the contents of para [1] to [7] above are correct to the best of my knowledge and belief and I swear by contents of this affidavit.

[Deponent]
Nayana Patel

3. The averments made by assessee in above affidavit, which are self-explanatory and which do not require repetition, were discussed and the Ld. DR for revenue does not have any objection if the bench condones delay and accordingly left it to the wisdom of bench. We have considered the explanation advanced by assessee and in absence of any contrary fact or

material on record, the assessee is found to have a "sufficient cause" for delay in filing present appeal. We find that section 253(5) of the Act empowers the ITAT to admit an appeal after expiry of prescribed time, if there is a "sufficient cause" for not presenting appeal within prescribed time. It is also a settled position by Hon'ble Supreme Court in ***Collector, Land Acquisition Vs Mst. Katiji and others 1987 AIR 1353, 1987 2 SCC 387*** that whenever substantial justice and technical considerations are opposed to each other, the cause of substantial justice must be preferred by adopting a justice-oriented approach. Thus, taking into account the facts of case, the provision of section 253(5) and the decision of Hon'ble Supreme Court, we take a judicious view, condone delay, admit appeal and proceed with hearing.

4. The brief facts of the case are as under:

- (i) The AO, on the basis of information of certain financial transactions having been done by assessee in the previous year 2011-12 relevant to AY 2012-13 under consideration, issued notice u/s 148 to assessee dated 29.03.2018 and thereby initiated the proceeding of assessment u/s 147. In response, the assessee filed return declaring a total income of Rs. 4,84,350/-. Ultimately, the AO completed assessment vide order dated 16.12.2018 u/s 147 r.w.s. 143(3) after making an addition of Rs. 1,73,349/- and thereby assessing total income at Rs. 6,57,700/-.

- (ii) Subsequently, the PCIT-1 Indore passed a revision-order dated 31.03.2021 u/s 263 setting aside the aforesaid assessment-order dated 16.12.2018 passed by AO and directing the AO to pass a fresh assessment-order after examining the issue of capital gain declared by assessee from sale of immovable property situated at Bada Bangarda.
- (iii) Pursuant to aforesaid revision-order, the AO passed a fresh assessment order dated 19.03.2022 u/s 147 r.w.s. 263 & 144B assessing capital gain from sale of immovable property as under:

Full value of consideration	Rs. 1,60,00,000/-	
Value of property at per section 50C as on date of Registered Sale:		
For 1 st Property	2,30,26,000/-	
For 2 nd property	2,30,00,000/-	Rs. 4,60,26,000/-
Less: Cost of acquisition	1,24,31,125/-	Rs. 1,24,31,125/-
Balance		Rs. 3,35,94,875/-
Less: Deduction u/s 54B as per computation of income		Rs. 1,50,00,000/-
LTCG		Rs. 1,85,94,875/-

- (iv) However, the assessee was aggrieved by the full value of consideration of Rs. 2,30,26,000/- (+) Rs. 2,30,00,000/- aggregating to Rs. 4,60,26,000/-, adopted by AO in above computation on the basis of section 50C. Accordingly, the assessee contested this issue before CIT(A) in first-appeal. Before CIT(A), the assessee claimed that the

property was sold through "Registered Agreements" and the "Registered Sale-Deeds" were made after a time gap, therefore the Stamp Duty as on the date of entering into Agreements must be taken as full value of consideration. Basically, the assessee insisted for giving benefit of 1st & 3rd Proviso to section 50C(1). However, the CIT(A) did not grant such benefit and passed following order rejecting assessee's claim:

"5.2 Findings and Decision:

1. Erroneous Application of Section 50C:

The appellant submitted that the sale consideration was received through banking channels before the date of the agreement to sell. Therefore, the first proviso to Section 50C should apply, allowing the stamp duty value on the date of the agreement to be considered instead of the date of registration. The appellant argued that the stamp duty value at the time of the agreement was Rs. 1,60,00,000, which should be considered for LTCG computation.

The A.O. adopted the guideline value for the year in which the transfer-deed was registered, which was Rs. 4,60,26,000. This approach is consistent with the provisions of Section 50C, which states that the value adopted by the stamp valuation authority on the date of transfer shall be deemed as the full value of consideration.

The A.O.'s application of Section 50C is in line with the statutory provisions. The first proviso to Section 50C, which allows for the consideration of the stamp duty value on the date of the agreement, requires that the consideration or part thereof must have been received by way of an account payee cheque, draft, or electronic transfer. However, there was insufficient evidence to conclusively establish that all conditions of the proviso were met. The A.O.'s reliance on the guideline value at the time of transfer is, therefore, justified.

2. Incorrect Computation of LTCG:

The appellant computed the LTCG based on the sale consideration of Rs. 1,60,00,000 (as per the agreement date) and claimed a deduction of Rs. 1,50,00,000 under Section 54B, resulting in a taxable L'TCG of Rs. 10,00,000. The appellant's calculation resulted in no significant tax liability.

The A.O. computed the LTCG by considering the guideline value at the time of registration, which was Rs. 4,60,26,000. After deducting the indexed cost of acquisition and the claimed deduction under Section 54B, the A.O. determined the taxable LTCG to be Rs. 1,85,94,875.

The A.O.'s computation of LTCG is based on the correct application of Section 50C. The appellant's claim that the sale consideration should be Rs. 1,60,00,000 is unsupported by sufficient evidence to warrant the application of the first proviso to Section 50C. Therefore, the A.O.'s determination of the taxable LTCG at Rs. 1,85,94,875 is upheld.

[emphasis supplied]

(v) Still aggrieved, the assessee has come in next appeal before us.

5. We have heard learned Representatives of both sides and perused the orders of lower authorities and the documents placed in Paper-Book filed by assessee.

6. At first, we re-produce below the relevant portion of section 50C being relied by assessee, reading as under:

“Special provision for full value of consideration in certain cases.

50C. (1) *Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government (hereafter in this section referred to as the "stamp valuation authority") for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purposes of section 48, be deemed to be the full value of the consideration received or accruing as a result of such transfer :*

Provided *that where the date of the agreement fixing the amount of consideration and the date of registration for the transfer of the capital asset are not the same, the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer:*

Provided further *that the first proviso shall apply only in a case where the amount of consideration, or a part thereof, has been received by way of an account payee cheque or account payee bank draft or by use of electronic*

clearing system through a bank account, on or before the date of the agreement for transfer:

Provided also that where the value adopted or assessed or assessable by the stamp valuation authority does not exceed one hundred and five per cent of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of section 48, be deemed to be the full value of the consideration.

7. Ld. AR for assessee submitted that the assessee has sold impugned property in two parts and the assessee has filed copies of initial "Registered Agreements" entered with the buyers as well as ultimate "Registered Sale-Deeds" executed with buyers in Paper-Book. He submitted that there was a time gap between the entering of "Registered Agreements" and execution of "Registered Sale-Deeds". He submitted that the AO has adopted the full value of consideration at Rs. 2,30,26,000/- & Rs. 2,30,00,000/- on the basis of Valuation done by Stamps Authority in the "Registered Sale-Deeds" but the assessee satisfies the conditions laid down in 1st & 2nd proviso to section 50C(1) and, accordingly, the "Valuation of Stamps Authority as on the date of Agreement" has to be adopted. He further submitted that the difference between the "Actual Sale Consideration" received by assessee and the "Valuation of Stamps Authority as on the date of Agreement" is also within the permissible limit of 5% in terms of 3rd proviso to section 50C(1). Therefore, the present case must be remanded to the AO for giving benefit of 1st Proviso & 3rd Proviso to 50C(1). He acknowledged that the assessee shall file copies of "Registered Agreements" and "Registered Sale-Deeds" and any other information/document to satisfy the AO *qua* the applicability of 1st &

3rd Proviso to section 50C(1) and to enable the AO to make a correct computation of taxable capital gain in terms of section 50C.

8. Ld. DR for revenue agreed to these submissions of Ld. AR.

9. Taking into account above submissions of learned Representatives, we remit this matter back to the file of Ld. AO for adjudication afresh. Needless to mention that the AO shall give proper opportunities to assessee and pass a fresh order after considering assessee's entire submission *qua* the provisions of section 50C, more specifically the aforesaid 1st & 3rd Proviso to section 50C(1). In carrying out such exercise, the AO shall have full freedom to call for necessary details/documents from assessee and also to consider the legal interpretation of provision of section 50C. The assessee is also directed to avail the opportunities given by AO without seeking unnecessary adjournments. Ordered accordingly.

10. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in open court on 22/01/2026
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Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 22/01/2026

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore