

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER**

ITA No. 2292/Del/2025
(Assessment Year: 2017-18)

Naresh Kumar Morya, Rajiv Colony, Narela, New Delhi	Vs.	Income Tax Officer, Ward-61(1), Delhi
(Appellant)		(Respondent)
PAN: AHUPM7348A		

Assessee by :	Shri H. S. Hooda, Adv Shri Akshit Sharma, Adv
Revenue by:	Shri Ajay Kumar Arora, Sr. DR
Date of Hearing	15/12/2025
Date of pronouncement	30/01/2026

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.2292/Del/2025 for AY 2017-18, arise out of the order of the Id National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. CIT(A)', in short] dated 25.02.2025 against the order of assessment passed u/s 147 r.w.s. 144 r.w.s. 144B of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 09.05.2023 by the Assessing Officer, Assessment Unit, Income Tax Department (hereinafter referred to as 'Id. AO').
2. The only effective issue to be decided in this appeal is as to whether the learned CITA was justified in confirming the addition made under Section 56(2)(vii)(b) of the Act on account of differential

consideration of immovable property in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the materials available on record. The assessee filed his return of income for assessment year 2017-18 declaring total income of Rs. 16,49,128. The learned AO received information that assessee in the impugned year purchased immovable property situated at MIG Flat No. 117, 2nd Floor, Ekjot Apartment, Pitampura, Delhi to the tune of Rs. 49 lakhs and the stamp duty value of this property stood at Rs. 52,32,960. The learned AO recorded reasons that a sum of Rs. 3,32,960 being the differential consideration had escaped assessment in terms of Section 56(2)(vii)(b) of the Act and issued notice under Section 148 of the Act on 29-07-2022 after taking approval from the competent authority under Section 151 of the Act. In response to the said notice, the assessee filed return of income on 18-11-2022 declaring the same total income of Rs. 16,49,128 as was originally disclosed in the return. During the course of reassessment proceedings, the learned AO showcaused the assessee as to why the differential consideration of Rs. 3,32,960 (52,32,960 minus Rs. 49 lakhs) be not treated as income from other sources as per the provisions of Section 56(2)(vii)(b) of the Act. The assessee gave the entire explanation together with the relevant documents and stated that only a sum of Rs. 49 lakhs was actually paid by him to the vendor of the property. The learned AO, not convinced with the reply, made an addition of Rs. 3,32,960 under Section 56(2)(vii)(b) of the Act. This addition was upheld by the learned CITA.

4. We find that the differential consideration of Rs. 3,32,960 is within the 10 percent tolerance limit prescribed in the Proviso to Section 56(2)(x) of the Act. It is pertinent to note that the provisions of Section

56(2)(x) of the Act was introduced only from 1-4-2017. We are conscious of the fact that provisions of section 56(2)(x) was introduced from 1.4.2017 and that the fourth proviso thereon providing the tolerance limit of 10 percent had been introduced from 1.4.2021. We also find that the third proviso to section 50C(1) of the Act providing the tolerance limit of 10 percent was introduced from 1.4.2019. It is well settled that the provisions of section 50C and 56(2)(vii)(b) and 56(2)(x) of the Act are pari materia with each other. We find that the Co-ordinate Bench of Mumbai Tribunal in the case of Maria Fernandes Cheryl vs ITO (International Taxation) reported in 123 taxmann.com 252 (Mum Trib) dated 15-1-2021 had held that amendment made in scheme of section 50C(1) of the Act by inserting third proviso thereto and by enhancing tolerance band for variations between stated sale consideration vis-à-vis stamp duty valuation from 5 per cent to 10 per cent are effective from date on which section 50C of the Act itself was introduced, i.e 01-04-2003. Though this decision was rendered in the context of section 50C which is applicable to seller of property, the same analogy would be applicable for the buyer of the property in terms of section 56(2)(vii)(b) of the Act. Hence respectfully following the said decision and also considering the fact that in the instant case, the differential consideration of Rs 3,32,960/- is less than 10% tolerance band, we hold that the addition made by the learned AO is to be deleted. Accordingly, the grounds raised by the assessee are allowed.

5. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 30/01/2026.

-Sd/-
(RAJ KUMAR CHAUHAN)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 30/01/2026
A K Keot

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

ASSISTANT REGISTRAR
ITAT, New Delhi