

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI**

BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)

I.T.A. No. 7553/Mum/2025

Assessment Year: 2018-19

Jawaharlal Devidas Chhabria 26/28, 1 st Floor Pankaj Market Mumbai - 400002 [PAN: ADKPC5328C]	Vs.	ITO, Ward – 23(1)(6)
(Appellant)		(Respondent)

Assessee by	Shri Kirit S. Sanghvi, A/R
Revenue by	Shri Limbasiya Kavan Nareshkumar, Sr. DR

Date of Hearing	04.02.2026
Date of Pronouncement	12.02.2026

ORDER

Per Smt. Beena Pillai, JM:

The present appeal filed by the assessee arises out of the order dated 22/09/2025 passed by the NFAC, Delhi [hereinafter the “Ld.CIT(A)”] for A.Y. 2018-19 on the following grounds of appeal:-

“1. The learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, erred in sustaining the addition of Rs.1,92,000 under section 56(2) (x) without appreciating that the difference between the agreement value and the DVO-determined value represents only an estimated variation arising from a technical valuation exercise and does not reflect any real income accruing to the appellant. Further, the Legislature has subsequently recognised permissible valuation variations by introducing safe-harbour limits of 5% and 10% under section 56(2) (x) in later years, thereby acknowledging that minor differences between stated consideration and valuation do not warrant taxation.

Relief Claimed: The appellant prays that the addition of Rs. 1,92,000 made under section 56(2)(x) may kindly be deleted in full.

2. The learned CIT (Appeals), NFAC, failed to appreciate that the variation between the agreement value and the stamp-duty valuation was only marginal. The Legislature has subsequently introduced 5% and 10% safe-harbour limits under section 56(2)(x). recognising that such minor valuation differences should not attract tax. The same principle ought to have been applied in the appellant's case.

Relief Claimed: *The appellant prays that, in view of the subsequent legislative recognition of permissible tolerance under section 56(2)(x), the addition sustained by the CIT (A) be deleted.*

3. *The learned CIT (Appeals), NFAC, erred in upholding the DVO-determined value as the absolute fair value and in holding that the safe-harbour principle has no relevance once a DVO reference is made. This view is contrary to section 56(2) (x) read with section 50C (2). under which the DVO's valuation only substitutes the stamp-duty value for comparison and does not exclude the application of tolerance principles or the need to ignore insignificant valuation differences.*

Relief Claimed: *The appellant prays that, in view of the incorrect rejection of the application of tolerance principles in cases involving DVO valuation under section 56(2)(x) read with section 50C(2), the addition sustained by the CIT (A) be deleted.*

The appellant craves leave to add, alter, amend or withdraw any of the above grounds at the time of hearing.”

2. Brief facts of the case are as under:

The assessee is an individual engaged in the wholesale/retail business of textiles and fabrics carried on under the name and style of M/s Jai Bhagwan Textiles. The assessee opted for presumptive taxation u/s 44AD and declared income from business and profession at ₹5,86,570/- by applying the prescribed rate of 8%. The return of income for the year under consideration was filed on 25/07/2018 declaring total income of ₹7,69,790/-.

2.1. The case was selected for manual scrutiny and statutory notices u/s 143(2) along with u/s 142(1) of the Act were issued to the assessee calling for various details. In response, the assessee furnished requisite details through e-filing. The Ld. AO noted that, during the year under consideration, the assessee purchased a property, being Flat No. 7, 1st Floor, B Wing-A, Param Anand Building, 5th Road, Khar (West), Mumbai-52. As per the agreement, the property was purchased by the assessee along with three co-owners. Subsequently, the said property was sold for a total consideration of ₹3,11,00,000/-, out of which the assessee's

share was 33%. On perusal of the document obtained from the Sub-Registrar's office, the Ld. AO observed that, the stamp duty value of the property was ₹3,36,56,000/- as against the agreement value of ₹3,11,00,000/-.

2.2. The assessee was thus called upon to explain why the provisions of u/s 56(2)(x) of the Act should not be invoked, as the purchase consideration was lower than the stamp duty value. In response, the assessee furnished certain details which, according to the Ld. AO, were not satisfactory. Accordingly, the Ld. AO made an addition of ₹8,51,910 being the assessee's share of the difference between the agreement value and the stamp duty value u/s 56(2)(x) of the Act.

Aggrieved by the order of the Ld. AO, the assessee preferred appeal before the Ld.CIT(A).

3. During the appellate proceedings, the assessee requested that the matter be referred to the Departmental Valuation Officer (DVO). Accordingly, a valuation report was obtained. The DVO, vide report dated 08/03/2022, determined the value of the property at ₹3,16,76,000. After considering the DVO's valuation, the difference between the declared consideration and the fair market value was worked out to ₹5,76,000. Taking into account that the assessee had one-third share in the property, the Ld.CIT(A) computed assessee's share of the difference at ₹1,92,000 and directed the Ld. AO to restrict the addition to that extent.

Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before the *Tribunal*.

4. The Ld. AR submitted that once the DVO's report is accepted by the Ld.CIT(A), the difference between the agreement value and the value so determined by the stamp authority falls within the 5% range, provided under the third proviso to u/s 50C(1) of the Act. It was contended that the Ld.CIT(A) failed to extend the benefit of the said proviso to the assessee. The Ld. AR submitted that, once the adopted value falls within the permissible tolerance band, no addition is called for. He submitted that the provisions seek to tax only the differential amount, subject to the statutory conditions and permissible variations prescribed under the Act.

4.1. On the contrary, the Ld. DR submitted that once the assessee availed the benefit of reference to the DVO, any further benefit under the third proviso to u/s 50C(1) should not be granted. It was contended that, the statutory scheme provides distinct relief mechanisms and that the assessee, having invoked and availed the benefit of valuation by the DVO, cannot simultaneously claim the benefit of the tolerance range provided under the third proviso to u/s 50C(1).

I have perused the submissions advanced by both sides in the light of the records placed before the *Tribunal*.

5. The short issue that arises for consideration in the present case is whether, after obtaining the valuation report from the DVO u/s 50C(2), could assessee claim the benefit of the third proviso to u/s 50C(1) relating to the permissible tolerance range.

5.1. In my considered opinion, the objection raised by the Revenue cannot be accepted. It is noted that, Section 50C(2) operates at the stage of determination of the fair market value of the property by the DVO, having regard to the surrounding

circumstances and the prevailing market rates at the relevant point of time. In contrast, the proviso to Section 50C(1) operates at a different stage, namely, where the value adopted or assessed for stamp duty purposes does not exceed the prescribed percentage of the consideration received or accrued as a result of the transfer for the purposes of computation u/s 48. The two provisions address different contingencies within the statutory framework.

4.2. The mechanism provided u/s 50C(2) does not eclipse or override the benefit available to the assessee under the proviso to u/s 50C(1). Both provisions operate in distinct spheres and are not mutually exclusive. The reference to the DVO is a procedural safeguard to determine the fair market value where the stamp duty value is disputed. It does not curtail the statutory tolerance granted by the proviso. Accordingly, we hold that the assessee is entitled to the benefit of the proviso to u/s 50C(1) notwithstanding the fact that a reference was made to the DVO and a valuation report was obtained. The Ld. AO is, therefore, directed to delete the addition.

Accordingly, the grounds raised by the assessee are allowed.

In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 12/02/2026

Sd/-

**(BEENA PILLAI)
Judicial Member**

Mumbai
Dated: 12/02/2026
SC Sr. P.S.

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By order

(Asstt. Registrar)
ITAT, Mumbai