IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN CIRCUIT BENCH: DEHRADUN

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA No.236/DDN/2025 & 05/DDN/2026
[Assessment Year : 2017-18]

Bhopal Singh Chaudhary Gola Bazar, Srinagar Garhwal Puari Garhwal, Srinagar, Uttarakhand-246174. ***PAN-ABCPC7009C***		vs	ITO Srinagar ITO, NFAC Srinagar
APPELLANT			**RESPONDENT**
Appellant by	Shri K.K. Juneja, Adv.		
Respondent by	Ms. Poonam Sharma, CIT DR		
Date of Hearing		09.03.2026	
Date of Pronouncement		09.03.2026	

ORDER

PER MANISH AGARWAL, AM :

The captioned appeals are filed by assessee against the order, both dated 22.09.2025 passed by Ld. Commissioner of Income Tax (A), National Faceless Appeal Centre ("NFAC"), Delhi ["Ld. CIT(A)"] u/s 250 of the Income Tax Act, 1961 ["the Act"] arising out of assessment order, both dated 02.09.2021 passed u/s 147 of the Act pertaining to Assessment Year 2017-18 and penalty u/s 270A of the Act respectively.

2. Since both the appeals are related to one assessee and against the additions made in reassessment order and consequent levy of penalty u/s 271A of the Act, therefore, they are taken together and

decided by a common order. First we take assessee's appeal in ITA No. 236/DDN/2025.

ITA No.236/DDN/2025 [Assessment Year : 2017-18]

3. Brief facts of the case are that assessee has filed his return of income on 25.03.2018, declaring total income of INR 6,61,010/-. The information was received that assessee had purchased immovable property for INR 15,78,401/- and as per registered Sale Deed, the market value of same was determined at INR 29,73,000/- by the stamp value authorities, therefore, in terms of section 56(2) of the Act, the assessee should be taxed in the hands of the assessee as Income from other sources and which has escaped assessment. Accordingly, case was re-opened u/s 147 of the Act after obtaining approval from the competent authority and in terms of the reassessment order dated 02.09.2021, AO has made the addition towards the differential value as per registered Sale Deed and the value determined by the stamp value authorities which was offered for tax in the return of income filed in response to the notice issued u/s 148 of the Act. Besides this, AO has also made the addition of interest on bank FDR's of INR 38,959/- which was not disclosed in the original return of income filed.

4. In first appeal, Ld.AR for the assessee submits that matter was referred for arbitration where the arbitral Tribunal vide its order dated 26.12.2022 has reduced the value of the property at INR 17,14,335/- and therefore, the assessee submits that the additional income offered in the return of income in response to notice issued u/s 148 should be restricted to differential value as determined by

arbitral Tribunal and the agreed consideration, since the income was offered by the assessee solely for this reason u/s 56(2) of the Act. However, ld. CIT(A) observed that the assessee himself admitted additional income in the return of income filed in response to notice issued u/s 148 of the Act therefore, the same cannot be reduced and further confirmed the addition of INR 38,959/- towards the bank deposits.

5. Before us, Ld. AR submits that after the order of the Arbitral Tribunal, fair market value of the said property was reduced to INR 17,14,335/- as against registered Sale Deed of INR 15,78,401/- thus there is a difference of INR 1,35,931/- only which is approx. 8.62% of the registered Sale Deed. Ld. AR submits that since it falls within the tolerance limit of 10% as provided u/s 50C of the Act, therefore, no addition is required to be made on this score. Regarding interest on bank FDR, Ld. AR submits that interest brought to tax by the AO on accrual basis whereas the assessee has disclosed the same on receipt basis therefore, no addition is required to be made. He prayed accordingly.

6. On the other hand, Ld. CIT DR for the Revenue submits that assessee has already offered income u/s 56(2) in the return of income filed in respect to notice issued u/s 148 and therefore, there is no question for reduction of the same. Regarding the Interest income, ld. CIT DR submits that the AO has made the addition on accrual basis which deserves to be uphold. She prayed accordingly.

7. Heard the contentions of both parties and perused the material available on record. In the instant case, the case of the assessee was re-opened solely on the basis of information that assessee has entered into the transaction of purchase of immovable property for INR 15,78,401/- which was valued at INR 29,73,000/- by the Stamp Authority. The assessee thus to but the peace of mind, in in the return of income filed in response to notice issued u/s 148 of the Act, has offered the differential amount of INR 13,94,599/- as income u/s 56(2) of the Act. Had there been no such difference in the value of the property, there was no occasion for the assessee to offer any additional income u/s 56(2) of the Act on this score. It is further observed that the assessee has challenged the valuation of the said property and the Arbitral authority i.e. Presiding Officer, Arbitral Tribunal, Rishikesh vide its order dated 26.12.2022 has computed the correct circle value of the property at INR 17,14,335/- in place of INR 29,73,000/- since the constructed area was wrongly considered as 200 sq. mtr as against 84.48 sq. mtr. while valuing the property at the time of registration of sale deed. The relevant extract of the order is as under:-

> *8.1 "This Tribunal awarded that the questioned property bearing Khet No. 6 and 7 of Khata No. 10 Fasli Year 1423 to 1428 measuring to 200 square meters consisting with constructed area 84.48 square meters and it has been valued at Rs. 17,14,335/- only and that should have to be corrected in accordance with the law for which specific direction given to the Dy. Registrar, Srinagar (Garhwal) in the foregoing paragraphs in this award.*
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> *8.2 This Tribunal directed to the Dy. Registrar Tribunal to make the following correction in executed sale deed dated 26/11/2016 which was registered with the Dy. Registrar, Srinagar vide Book No. 1 Zild 132 Page 1 to 14 at Serial No. 362 on dated 30/11/2016:-*

(a) The Circle Value be and hereby corrected to Rs. 17,14,335/- only in place of Rs. 29,73,000/- only wherever written in the entire sale deed;

(b) The constructed area be and hereby corrected to 84.48 square meters in place of 200 square meters on the entire sale deed;

8.3 This Tribunal also decided that the questioned sale deed dated 26/11/2016 was finally valued to Rs. 17,14,335/- only and sale consideration of Rs. 15,78,401/- only and directed to the Dy. Registrar to make appropriate corrections in the questioned sale registered vide Book No. 1 Zild 132 Page 1 to 14 at Serial No. 362 on dated 30/11/2016 as determined by this tribunal."

8. Since the assessee has offered additional income in the return of income filed u/s 56(2) solely for the reason that there was difference between the valuation done by Stamp Authority and as per registered Sale Deed which should be taxed as Income from Other Sources therefore, in case the Competent Authority i.e. Stamp Authority had reduced the said valuation, there is no occasion to the assessee to offer such income for tax. It is settled law that what is legally chargeable should be taken as income. Therefore, we direct the AO to reduce the income of the assessee to the extent of differential amount of INR 12,58,665/- (29,73,000 – 17,14,335) between the value reduced by the Arbitral Tribunal and as per registered sale deed.

9. Now coming to the issue of addition of differential amount of INR 1,35,934/- (INR 17,14,335 – INR 15,78,401), we find that the same come to 8.62% of the registered Sale Deed which is more that the tolerance limit of 5% inserted u/s 50C of the Act from AY 2019-20. The Co-ordinate Bench of the Delhi Tribunal, in the case of ***Amrapali Cinema vs. ACIT, Circle-I, Meerut*** reported in ***(2021) 127 TAxmann.com376 (ITAT Delhi)*** has held as under:

8. *"We have heard the rival contentions and perused the material available on record. We find that there is no dispute with regard to fact that fair market value determined by the DVO at Rs. 8,89,63,168/-against the actual sale consideration of Rs. 8,78,00,000/- as disclosed in Sale Deed. The resulting difference is Rs.11,63,168/- which is 1.02%. The Co-ordinate Bench of this Tribunal in the case of Maria Fernandes Cheryl(supra) has held as under:—*

> 7. *'These submissions, however, do not impress us. As noted by the Central Board of Direct Taxes circular # 8 of 2018, explaining the reason for the insertion of the third proviso to Section 50C(1), has observed that "It has been pointed out that the variation between stamp duty value and actual consideration received can occur in respect of similar properties in the same area because of a variety of factors, including the shape of the plot or location". Once the CBDT itself accepts that these variations could be on account of a variety of factors, essentially bona fide factors, and, for this reason, Section50C(1) should not come into play, it was an "unintended consequence" of Section 50(1) that even in such bona fide situations, this provision, which is inherently in the nature of an anti-avoidance provision, is invoked. Once this situation is sought to be addressed, as is the settled legal position- as we will see a little later in our analysis, this situation needs to be addressed in entirety for the entire period in which such legal provisions had effect, and not for a specific ITA No. 4850/Mum/2019 Assessment year: 2011-12 time period only. There is no good reason for holding the curative amendment to be only as prospective in effect. Dealing with a somewhat materially identical situation in the case of Rajeev Kumar Agarwal v. ACIT [(2014) 45 taxmnann.com 555 (Agra)] wherein a coordinate bench was dealing with the question whether insertion of a proviso to Section 40(a)(i) to cure intended consequence could have retrospective effect, even though not specifically provided for, and speaking through one of us (i.e. the Vice President), the coordinate bench had, after a detailed analysis of the legal position, observed that, "Now that the legislature has been compassionate enough to cure these shortcomings of provision, and thus obviate the unintended hardships, such an amendment in law, in view of the well settled legal position to the effect that a curative amendment to avoid unintended consequences is to be treated as retrospective in nature even though it may not state so specifically, the insertion of second proviso must be given retrospective effect from the point of time when the related legal provision was introduced". Referring to this decision, and extensively*

reproducing from the same, including the portion extracted above, Hon'ble Delhi High Court, in the case of CIT v. Ansal Landmark Township Pvt Ltd. [(2015) 61taxmann.com 45 (Del)], has approved this approach and observed that "(t)he Court is of the view that the above reasoning of the Agra Bench of ITAT as regards the rationale behind the insertion of the second proviso to Section 40(a)(ia) of the Act and its conclusion that the said proviso is declaratory and curative and has retrospective effect from 1st April 2005, merits acceptance". The same was the path followed by another bench of this Tribunal in the case of Dharmashibhai Sonani v. ACIT [(2016) 161 ITD 627 (Ahd)]which has been approved by Hon'ble Madras High Court in the judgment reported as CIT v. Vummudi Amarendran [(2020) 429 ITR 97 (Mad)]. The question that we must take a call on, therefore, is as to what is the rationale behind the insertion of the third proviso to section 50C(1), and if that rationale is to provide a remedy for unintended consequences of the main provision, we must hold that the third proviso to section 50C(1) comes into force with effect from the same date on which the main provision, unintended provisions of which are sought to be nullified, itself was brought into effect. Let us understand what the nature of the provisions of Section 50C is. In terms of this provision, if the property is sold below the stamp duty valuation rate, which is often called circle rate, this stamp duty valuation report is assumed as sale consideration for the property in question, and, accordingly, capital gains tax is levied. This deeming fiction to substitute apparent sale considerations by notional consideration computed on the basis of a stamp duty valuation rate, was thus to address the issue with respect to potential evasion of taxes by understating the sale consideration amount in a sale deed. As noted by the CBDT, while explaining the justification for insertion of section 50 C, "(t)he Finance Act, 2002, has inserted a new section 50C in the Income-tax Act to make a special provision for determining the full value of consideration in cases of transfer of immovable property". Section 50C, thus, on a conceptual note, is a provision to address capital gains tax evasion on account of understatement of the consideration. Of course, the law provides, under section 50C(2), that wherever an assessee claims that the actual market rate is less than the stamp duty valuation, he can have the matter referred to a Departmental Valuation Officer for the ascertainment of the market value, but then it is a ITA No.4850/Mum/2019 Assessment year: 2011-12 cumbersome procedure and, at the end of the day, every valuation, whether by the departmental valuation officer or under the stamp duty valuation notification, is an estimate, and there can always be bona fide variations,

though to a certain limited extent, in these estimations. Unless, therefore, some kind of a tolerance band or a safe harbour provision, in respect of such bona fide variations, is implicit in the scheme of law, the assessees are bound to face undue hardships. The mechanism under section 50C proceeds on the assumption that when the sale consideration is less than the stamp duty valuation, the sale consideration is to be treated as understated. This assumption is, however, laid to rest when the variations between the stated consideration and the stamp duty valuation figure are treated as explained. The insertion of the third proviso to section 50C(1)provides for this tolerance band with respect to a certain degree of variations between the stamp duty valuation and the stated consideration of an immovable property. In other words, as long as the variations are within the permissible limits, the anti-avoidance provisions of section 50C do not come into play. As we have noted earlier, the CBDT itself accepts that there could be various bona fide reasons explaining the small variations between the sale consideration of immovable property as disclosed by the assessee vis-à-vis the stamp duty valuation for the said immovable property. Obviously, therefore, disturbing the actual sale consideration, for the purpose of computing capital gains, and adopting a notional figure, for that purpose, will not be justified in such cases. On a conceptual note, an estimation of market price is an estimation nevertheless, even if by a statutory authority like the stamp duty valuation authority, and such a valuation can never be elevated to the status of such a precise computation which admits no variations. The rigour of section 50C(1) was thus relaxed, and very thoughtfully so, to take these bona fide cases of small variations between the stated sale consideration vis-à-vis stamp duty valuation, out of the scope of adjustments contemplated in the computation of capital gains under this anti-avoidance provision. In our humble understanding, it is a case of a curative amendment to take care of unintended consequences of the scheme of Section 50C. It makes perfect sense, and truly reflects a very pragmatic approach full of compassion and fairness, that just because there is a small variation between the stated sale consideration of a property and stamp duty valuation of the same property, one cannot proceed to draw an inference against the assessee, and subject the assessee to practically prove his being truthful in stating the sale consideration. Clearly, therefore, this insertion of the third proviso to section 50C(1) is in the nature of are medial measure to address a bona fide situation where there is little justification for invoking an anti-avoidance provision. Similarly, so far as enhancement of tolerance band to 10% by the Finance Act

2020,is concerned, as noted in the CBDT circular itself, it was done in response to the representations of the stakeholders for enhancement in the tolerance band. Once the Government acknowledged this genuine hardship to the taxpayer and addressed the issue by a suitable amendment in law, the next question was what should be a fair tolerance band for variations in these values. As a responsive Government, which is truly the hallmark of the present Government, even though the initial tolerance band level was taken at5%, in response to the representations by the stakeholders, this tolerance band, or safe harbour provision, was increased to 10%. There is no particular reason to justify any particular time frame for implementing this enhancement ITA No. 4850/Mum/2019 Assessment year: 2011-12 of tolerance band or safe harbour provision. The reasons assigned by the CBDT, i.e., "the variation between stamp duty value and actual consideration received can occur in respect of similar properties in the same area because of a variety of factors, including the shape of the plot or location," was as much valid in 2003 as it is in 2021. There is no variation in the material facts in this respect in 2021 vis-à-vis the material facts in 2003. What holds good in 2021 was also good in 2003. If variations up to 10% need to be tolerated and need not be probed further, under section 50C, in 2021, there were no good reasons to probe such variations, under section50C, in the earlier periods as well. We are, therefore, satisfied that the amendment in the scheme of section 50 C(1), by inserting the third proviso thereto and by enhancing the tolerance band for variations between the stated sale consideration vis-à-vis stamp duty valuation to 10%, are curative in nature, and, therefore, these provisions, even though stated to be prospective, must be held to relate back to the date when the related statutory provision of Section 50C, i.e. 1st April 2003. In plain words, what is means is that even if the valuation of a property, for the purpose of stamp duty valuation, is 10% more than the stated sale consideration, the stated sale consideration will be accepted at the face value and the anti-avoidance provisions under section 50C will not be invoked.

8. *Once legislature very graciously accepts, by introducing the legal amendments in question, that there were lacunas in the provisions of Section 50 C in the sense that even in the cases of genuine variations between the stated consideration and the stamp duty valuation, anti-avoidance provisions under section50C could be pressed into service, and thus remedied the law, there is no escape from holding that these amendments are effective with effect from the date on which the related provision, i.e., Section 50C,itself was introduced. These amendments are thus held to be retrospective in effect. In our considered view, therefore, the provisions of the third*

proviso to Section 50C (1), as they stand now, must be held to be effective with effect from 1st April 2003. We order accordingly. Learned Departmental Representative, however, does not give up. Learned Departmental Representative has suggested that we may mention in our order that "relief is being provided as a special case and this decision may not be considered as a precedent". Nothing can be farther from a judicious approach to the process of dispensation of justice, and such an approach, as is prayed for, is an antithesis of the principle of "equality before the law," which is one of our most cherished constitutional values. Our judicial functioning has to be even-handed, transparent, and predictable, and what we decide for one litigant must hold good for all other similarly placed litigants as well. We, therefore, decline to entertain this plea of the assessee.'

9. *Respectfully following the same, we direct the Assessing Officer to delete the addition. Thus, Grounds of appeal raised by the assessee in this appeal are allowed."*

10. As in the aforesaid case, the Co-ordinate bench has held that such amendment is clarificatory in the nature and applicable sine insertion of the section 50C in the statute. Therefore, by following such order, we delete the remaining addition of Rs. 1,35,934/- which is within the tolerance limit of 10%.

11. With respect to the addition of INR 38,959/- being the interest income on FDRs, assessee claimed that same was offered for tax on receipt basis whereas the AO has made the addition on accrual basis, therefore, we restore this issue to the file of AO for verification whether the same was offered for tax in the year when interest was actually received and if so, no addition is required to be made in the year under appeal otherwise, the addition is sustained. With these directions, the appeal of the assessee is partly allowed.

12. In the result, the appeal of the assessee is partly allowed.

ITA No.05/DDN/2026 [Assessment Year : 2017-18]

13. In this appeal, assessee has challenged the levy of penalty u/s 270A of the Act on the income of INR 13,94,599/- considered by the AO as concealed income being the difference between the circle rate and the declared sale consideration. While deciding the appeal of the assessee in quantum proceedings in ITA No.236/DDN/2025, we have already deleted the addition made on this score. Therefore, the penalty levied to the extent of this addition is hereby deleted.

14. Regarding levy of penalty on the addition of INR 38,959/- being the bank interest, we have already set aside this issue to the file of AO therefore, no penalty is leviable on this issue. Accordingly, penalty levied u/s 270A of the Act is hereby, deleted.

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

16. In the final result, appeal of the assessee in **ITA Nos.236/DDN/2025 [Assessment Year 2017-18]** is allowed for statistical purposes **& ITA No. 05/DDN/2026 [Assessment Year 2017-18]** is allowed.

Order pronounced in the open Court on 09.03.2026.

Sd/- ***Sd/-***

(MAHAVIR SINGH)
VICE PRESIDENT

(MANISH AGARWAL)
ACCOUNTANT MEMBER

Date-10.03.2026
Amit Kumar, Sr.P.S

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Sr.P.S/ASSISTANT REGISTRAR
ITAT, NEW DELHI
(Dehradun Circuit Bench, Dehradun)