

**IN THE INCOME-TAX APPELLATE TRIBUNAL, MUMBAI “J (SMC)” BENCH, MUMBAI
BEFORE SHRI BEENA PILLAI, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
ITA No. 646/MUM/2026 (AY:2017-18)**

Vikas Bedprakash Pandey, 1102 Riddhi Tower, Riddhi Garden Film City Road, Malad E Mumbai- 400097.	vs.	Income Tax Officer, Ward 41(4)(4),Kautilya Bhavan, Mumbai- 400051.
PAN/GIR No: ANWPP9823B		
(Appellant)		(Respondent)
Appellant by	Ms. Dinkle Hariya, Adv.	
Respondent by	Shri Pankaj Kumar (CIT-DR)	
Date of Hearing	09.03.2026	
Date of Pronouncement	10.03.2026	

ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal filed by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'Act') by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre [in short, 'CIT(A)'], dated 27.11.2025 for the assessment year (AY) 2017-18.

2. The grounds of appeal raised by the assessee are as under:

“1. In the facts and circumstances of the case and in law, the initiation of reassessment proceeding by invoking the provisions of section 147 r.w.s.148A r.w.s. 144 of the Act is bad in law.

2. The Ld. Assessing Officer has erred in adding difference between stamp duty value and purchase price as income of the assessee u/s 56(2)(vii) (b) of the Act even when the difference was mere 1.065 percent.

3. The appellant craves leave to add, alter and amend the Grounds of appeal.”

3. Facts of the case in brief are that the assessee filed his return of income for the AY 2017-18 on 31.03.2018 declaring total income at Rs.8,54,160/-. Subsequently, the case was reopened u/s 147 and notice u/s 148 was issued on

30.07.2022. As per the information with the AO, the assessee had purchased immovable property for a consideration of Rs.70,00,000/- whereas the stamp duty value was Rs.70,74,519/-. Thus, there was difference of Rs.74,519/-. The AO added the difference of Rs.74,519/- u/s 56(2)(vii)(b) of the Act. The AO did not accept reliance of the assessee on the provisions of section 56(2)(x)(b) of the Act by observing that it was effective from 01.04.2019 (AY 2019-20).

4. Aggrieved by the order of AO, the assessee filed appeal before the CIT(A). The appellant submitted that the difference in value of Rs.74,519/- is 0.00995% of the stamp duty value. Since the difference was not more than 10% of the transaction value, the addition is against law. The appellant referred to section 56(2)(x)(b) of the Act and submitted that the difference was within the permissible variation in the Act itself. He relied on the decisions of the Hon'ble Supreme Court in case of CIT vs. Alom Extrusions Ltd., 185 Taxman 416 (SC) and Allied Motors Pvt. Ltd. vs. CIT, 91 Taxman 205 (SC) where it was held that curative nature of amendment should be given retrospective effect. The CIT(A), however, held that the amendment is effective from AY 2019-20 onwards and hence, not applicable in case of the assessee for AY 2017-18. For the above reason, addition of Rs.74,519/- u/s 56(2)(x)(b) of the Act was confirmed and appeal of assessee was dismissed.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The Ld. AR has filed a small paper book and submitted that the issue is

fully covered by a number of decisions by the Tribunals including the jurisdictional Mumbai Tribunal. He relied on the decisions in cases of Maria Fernandes Cheryl vs. ITO (ITA No.4850/Mum/2019 dated 15.01.2021) and Saggar Perimmal vs. ITO (ITA No.84/Mum/2025 dated 21.03.2025).

6. On the other hand, the Ld. Sr. AR of the revenue relied on the orders of lower authorities. However, he submitted that bench may decide the matter as it thinks fit.

7. We have heard both sides and perused the materials on record. We have also deliberated on the decisions relied upon by the Ld. AR. Both the sides agreed that this is a covered issue in the light of various decisions of the Tribunals including the jurisdictional ITAT in case of Maria Fernandes Cheryl (supra) and Saggar Perimmal (supra). The Tribunal in case of Maria Fernandes (surpa) held as under:-

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 section 50C 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. We have noted that as against the stated consideration of Rs 75,00,000, the stamp duty valuation of the property is Rs 79,91,500. The difference is just Rs. 4,91,500, which is about 6.55% of the stated sale consideration. As the difference between the stated consideration vis-à-vis the stamp duty valuation is admittedly less than 10% of the stated consideration in this case, and in the light of the above discussions, we are of the considered view that Section 50C will have no application in the matter. The enhancement in capital gain Assessment year: 2011-12 computation, as made by the Assessing Officer, thus stands disapproved. The assessee gets the relief accordingly.

7.1 The Tribunal in case of Saggur Parimmal also decided the issue in favour of assessee for AY 2018-19, after referring to the decisions in cases of ACIT vs. Sunil B Dalal, (2022) 145 taxmann.com 313 (Mum. Trib) and Shri Ashutosh Sinha vs. ITO (ITA No.643/Mum/2023 dated 29.08.2023) by stating as under:-

In light of these decisions, we find that the amendment in question is curative in nature and is retrospectively applicable for impugned assessment year. Consequently, the assessee is eligible for the 10% tolerance limit under section 56(2)(x)(b)(B) of the Act and the impugned addition is deleted. Furthermore, in ITA No. 85/Mum/2025, the Ld. AO has adopted a view that limits the tolerance threshold to 5% of the total consideration. This view is wholly unjustified and contrary to the correct interpretation of section 56(2)(x)(b)(B) of the Act. Therefore, the addition made on this account is directed to be deleted. With respect to ITA No. 84/Mum/2025, we note that the CIT(A) has passed an ex parte order without considering the merits of the case. Since both assessee's are co-owners of the property and the issue involved is common, we find it

appropriate to decide both appeals in favor of the assessee's. The principle of mutatis mutandis applies, and accordingly, the grounds raised in both appeals are allowed.

8. The facts of the instant case are similar to the facts of the cases reproduced above. The difference between the two values in the instant appeal was only 1.065%, which is below the tolerance limit under section 56(2)(x)(b)(B) of the Act. Hence, following the reasons given in the decisions cited supra, the grounds are allowed.

9. Since we have allowed the appeal on merit, there is no need to adjudicate the legal and jurisdictional issue of reopening u/s 147 of the Act.

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

Order is pronounced on 10.03.2026.

Sd/-
(BEENA PILLAI)
JUDICIAL MEMBER

Sd/-
(BIJYANANDA PRUSETH)
ACCOUNTANT MEMBER

*Aniket Chand; Sr. PS

MUMBAI

Date: 10.03.2026

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, MUMBAI
6. Guard File

By Order
Assistant Registrar
ITAT, MUMBAI