

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA Nos. 3146 & 3147/Bang/2025
Assessment Year : 2016-17

Kasimali Mahaboobsab Sayyed Civil Engineer Near Cambridge School Kalasapur Road Gadag 582 103 Karnataka PAN NO : AONPS4913H	Vs.	ITO Ward-1 Gadag
APPELLANT		RESPONDENT

Appellant by	:	Sri Kashinath Kalamth, A.R.
Respondent by	:	Sri Balusamy N., D.R.

Date of Hearing	:	18.03.2026
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ITA No. 1724/Bang/2025
Assessment Year : 2016-17

Kasimali Mahaboobsab Sayyed Civil Engineer Near Cambridge School Kalasapur Road Gadag 582 103 Karnataka PAN NO : AONPS4913H	Vs.	ITO Ward-1 Gadag
APPELLANT		RESPONDENT

Appellant by	:	Sri Kashinath Kalamth, A.R.
Respondent by	:	Sri Balusamy N., D.R.

Date of Hearing	:	26.03.2026
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Date of Pronouncement	:	30.03.2026
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O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER

These appeals at the instance of the assessee are directed against the separate orders of the ld. CIT(A)/NFAC all related to assessment year 2016-17 vide DIN & Order No. ITBA/NFAC/S/250/2025-26/1078476739(1) dated 14.7.2025, vide DIN & Order No. ITBA/NFAC/S/250/2025-26/1079691715(1) dated 18.8.2025 & vide DIN & Order No. ITBA/NFAC/S/250/2025-26/1077790831(1) dated 25.6.2025, all passed u/s 250 of the Income Tax Act, 1961 (in short "The Act"). Since the issue in all these appeals interrelated, these are clubbed together and disposed of by this common order for the sake of convenience & brevity.

2. We first take quantum appeal in ITA No.3146/Bang/2025 for disposing of these appeals and the grounds raised in this appeal are reproduced below:

10	Grounds of Appeal	Tax effect relating to each Ground of appeal (<i>see note below</i>)
	1. The Learned CIT(A) went wrong in upholding the order of re-assessment made for the assessment year 2016-17.	Rs.24,70,156/-
	2. The Learned CIT(A) ought to have held the notice issued u/s.148 of the Act is without jurisdiction.	
	3. The Learned CIT(A) went wrong in holding the provisions of section 50C of the Act are applicable to the appellant's case.	
	4. The Learned CIT(A) ought to have appreciated that the appellant has held the sites in stock in trade and has declared income under the head business, as such section 50C of the Act could not have been applied to re-compute the income.	
	5. The Learned CIT(A) ought to have deleted the addition as no reference was made for DVO as required u/s.50C(2) of the Act.	
	6. The Learned CIT(A) erred in confirming the interests levied u/s. 234A & 234B of the Act.	

3. The brief facts of the case are that the assessee filed his return of income for the AY 2016-17 on 31.3.2018 declaring total income of Rs.6,67,720/-. The assessee had declared income from house property of Rs.2,60,624/- and business income of Rs.5,57,094/- and claimed deduction u/s 80C of the Act amounting to Rs.1,50,000/-. There was an information available in the insight portal in respect of sale of immovable property carried out by the assessee during the financial year 2015-16 relevant for the assessment year 2016-17 and accordingly based on such information, the case of the assessee was reopened and notice u/s 148 of the Act dated 29.3.2021 was issued. Thereafter, a notice u/s 142(1) of the Act was also issued calling for specific details required for completion of the proceeding. However, there was no compliance by the assessee.

3.1 As per data received from the Sub-Registrar, Koppal, the assessee had sold capital asset comprising of 18 sites in the financial year 2015-16 and the registered sale deed for sale consideration was lesser than the stamp value. The AO observed that the total consideration receipt on sale of 18 sites were Rs.47,56,000/-, whereas the market value of the 18 sites were Rs.92,37,000/- and hence, there was a difference of Rs.44,81,000/- between the stamp duty value and the sale consideration declared.

3.2 Further, the AO found that the assessee had received sale consideration in cash to the tune of Rs.66,14,000/-, which was in violation of section 269SS of the Act. Since the assessee had failed to furnish the return of income in response to notice u/s 148 of the Act and also did not furnish any details in response to specific questionnaire issued relating to business activity undertaken and the details of sale of property by the assessee along with books of accounts, the AO issued show cause notice stating why order should

not be passed ex-parte based on the material available on record. The assessee neither furnished any details in response to notice u/s 142(1) of the Act nor in response to the show cause notice and in view of non-compliance from the assessee, the AO was of the view that assessee had no explanation to offer regarding the difference in sale consideration received and stamp value of Rs.44,81,000/- and the violation of section 269SS of the Act in respect of receipt of sale consideration to the tune of Rs.66,14,000/-. Thus, the AO concluded the assessment proceedings by adding Rs.44,81,000/- being difference in the valuation as per stamp duty value and as per sale consideration received and accordingly completed the assessment proceedings on a total taxable income of Rs.51,48,720/-. Further, the AO while concluding the assessment also initiated penalty proceedings u/s 271(1)(c), 271D as well as 271(1)(b) of the Act on or before completion of the assessment proceedings.

4. Aggrieved by the assessment completed u/s 147 r.w.s. 144 of the Act dated 21.3.2022, the assessee preferred an appeal before the Id. CIT(A)/NFAC.

5. The Id. CIT(A)/NFAC dismissed the appeal of the assessee by holding that the AO had acted within the four corners of the law. The reassessment proceedings were lawfully initiated on the basis of credible intelligence, duly sanctioned and appropriately communicated. The addition u/s 50C of the Act was made on the deemed consideration prescribed by statute. The burden of proof to rebut the same or invoke section 50C(2) of the Act lays squarely on the assessee which the assessee failed to discharge. The later stage assertion that the land constituted business inventory is neither supported by books of accounts nor reflected in return disclosures and accordingly concluded that the reassessment order deserves to be sustained and the appeal is devoid of merit.

6. Again, aggrieved by the order of Id. CIT(A)/NFAC, dated 14.7.2025, the assessee has filed the present appeal before this Tribunal.

7. Before us, the Id. A.R. of the assessee vehemently submitted that the assessee is into the business of real estate and declared his income from house property as well as business income while filing the return of income for the AY 2016-17 and not from any capital gains from sale of immovable properties. Further, the Id. A.R. submitted that since the assessee is into the business of real estate and the nature of work is purchase and sale of plots/sites and therefore, the provision of section 50C of the Act will not apply in the case of assessee.

7.1 Further, the Id. A.R. submitted that Id. CIT(A)/NFAC grossly erred in law in holding that the later stage assertion that the land constituted business inventory is neither supported by books of accounts nor reflected in return is completely baseless especially when the assessee had declared his income from business in his return of income originally filed on 31/03/2018.

8. The Id. D.R. on the other hand relied on the order of the authorities below and vehemently submitted that in spite of several opportunities, the assessee did not furnish any supporting documents/evidences before the AO to substantiate his claim.

9. We have heard the rival submissions and perused the materials available on record. The contention of the AR of the assessee is that the assessee is into the business of real estate and the land/sites constituted business inventory and therefore, the provision of section 50C of the Act will not be applicable to him. We

also take note of the fact that assessee while filing the return of income had disclosed only income from house property & profit from business only and not from the capital gains. Before us, the Id. A.R. of the assessee vehemently submitted that the assessee could not represent his case before the AO and therefore the assessee could not produce the relevant details to substantiate his claim that the assessee is into the business of real estate. We are of the considered opinion that section 50C of the Act falls under the Chapter IV of the Act, which deals with the computation of income from capital gains. Further, section 50C can be applicable only where the consideration is received or accruing as a result of the transfer of a capital asset. Thus, if the assessee is into the business of real estate and purchases and sell the lands/properties/sites in the normal course of business, then the provision of section 50C of the Act will not be applied in the case of the assessee as income from such transfer is taxable under the head "Profits & gains of business or profession & not as capital gains. However, we are also of the opinion that since before the authorities below, the assessee failed to demonstrate that he is into the business of real estate and more particularly before the Id. CIT(A)/NFAC, the assessee contended that the land constituted business inventory, we deem it fit and proper to remit this issue to the file of AO to decide whether the assessee is into the business of real estate & the lands/sites were held as business inventory or not? If the AO found that the assessee is into the business of real estate and purchase and sales of plots/sites are in the normal course of business, then the provision of section 50C of the Act will not be applicable to the assessee and accordingly delete the additions as made u/s 50C of the Act. Needless to say, reasonable opportunity of being heard must be granted to the assessee. The assessee is also directed to produce all the relevant documents/evidences /agreements/land records, etc. along with books of accounts to

substantiate his claim that he is into the business of purchase and sale of plots/sites. It is ordered accordingly.

10. In the result, appeal filed by the assessee is partly allowed for statistical purposes.

ITA No. 3147/Bang/2025 (AY 2016-17):

11. In this appeal the assessee has raised following grounds of appeal:

10	Grounds of Appeal	Tax effect relating to each Ground of appeal (see note below)
	1. The Learned CIT(A) erred in dismissing the appeal for the assessment year 2016-17 on the ground of limitation.	Rs. 66,14,000/-
	2. The Learned CIT(A) has failed to appreciate that the appellant was unaware of the order passed levying penalty and the appellant came to know only when the bank account was attached and thereafter made efforts to obtain certified copies and filed the appeal.	
	3. The Learned CIT(A) erred in holding the delay in filing the appeal is not Bonafide.	
	4. Appellant craves leave of this Hon'ble Tribunal to add, amend, delete urge and any other ground/s at the time of hearing.	
	Total tax effect (see note below)	Rs.66,14,000/-

12. Since we have remitted the quantum appeal to the file of AO to decide as per our observations in accordance with law after affording reasonable opportunity of being heard to the assessee, we deem it fit and proper to remit this issue of penalty u/s 271D of the Act to the file of AO to decide afresh in accordance with law.

ITA No.1724/Bang/2025 (AY 2016-17):

13. The assessee has raised the following grounds of appeal:

Grounds of Appeal	10	Grounds of Appeal	Tax effect relating to each Ground of appeal (see note below)
	1.	The Learned Appellate Authority dismiss the Appeal on the ground of limitation, without considering the bonafide reasons explained.	Rs. 13,50,404/-
	2.	Order of Learned CIT(A) is erroneous and is liable to be set aside.	
	3.	The Learned Appellate Authority did not appreciate the certified copies were collected during February 2025, which is after the Bank Account seized.	
	4.	Appellant submits, in regard to filing of returns for the assessment year 2022-23 on words. Tax consultant has not looked into e-filing portal, as he was under bonafide reason that no assessment proceedings were pending.	
	5.	Impugned order is not in accordance with law in the facts and circumstances of Appellant's case, liable to set aside.	
	6.	Appellant craves leave of this Hon'ble Tribunal to add, amend, delete urge and any other ground/s at the time of hearing.	
		Total tax effect (see note below)	Rs.13,50,404/-

14. Since we have remitted the quantum appeal to the file of AO to decide as per our observations in accordance with law after affording reasonable opportunity of being heard to the assessee, we deem it fit and proper to remit this issue of penalty u/s 271(1)(c) of the Act to the file of AO to decide afresh in accordance with law.

15. In the result, all the above appeals filed by the assessee are partly allowed for statistical purposes.

Order pronounced in the open court on 30th Mar, 2026

Sd/-
(Prashant Maharishi)
Vice President

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 30th Mar, 2026.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.