

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No.979/Ind/2025
Assessment Year:2017-18

Rasmeet Singh Malhotra, Alka Talkies, Nehru Ward, Pipariya	<u>बनाम/</u> Vs.	DCIT (Central Circle)-2 Bhopal
(Assessee/Appellant)		(Revenue/Respondent)
PAN: ABJPM6167G		
Assessee by	Shri Satyanarayan Agrawal, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	15.04.2026	
Date of Pronouncement	17.04.2026	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first appeal dated 23.09.2025 passed by learned Commissioner of Income-Tax (Appeals)-3, Bhopal ["CIT(A)"], which in turn arises out of assessment-order dated 06.12.2019 passed by learned DCIT, Central Circle-2, Bhopal ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2017-18, the assessee has filed this appeal on following grounds:

"1. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming the action of the Assessing Officer in computing the share of the appellant in sale consideration at Rs. 42,50,000/- (Rs. 85,00,000/2) as against actual share of the appellant in sale consideration of Rs. 42,00,000/- (Rs. 84,00,000/2)

without properly appreciating the facts of the case and submissions made before him."

2. The grievance of assessee in present case is very small and so also the underlying facts. The assessee, as joint owner having ½ share, sold an immovable property during the year. The actual sale consideration received from purchaser was Rs. 84,00,000/- (assessee's ½ share – Rs. 42,00,000/-) whereas the valuation done by stamps authority was Rs. 85,00,000/- (assessee's ½ share – Rs. 42,50,000/-). While the assessee computed taxable capital gain by taking Rs. 42,00,000/- as full value of consideration, the lower authorities invoked section 50C and adopted Rs. 42,50,000/-. The assessee is aggrieved by action of lower authorities.

3. Ld. AR for assessee made a straightforward submission that the assessee is entitled to the benefit of 3rd Proviso to section 50C(1) introduced by Parliament through Finance Act, 2018 w.e.f. 01.04.2019, reading as under:

"Provided also that where the value adopted or assessed or assessable by the stamp valuation authority does not exceed one hundred and five per cent of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purpose of section 48, be deemed to be the full value of the consideration."

4. Ld. AR submitted that the difference in present case is just Rs. 50,000/- which is very much within the safe harbour limit of 5% permitted in above Proviso. In so far as the applicability of above Proviso to AY 2017-18, with which we are concerned in this appeal, Ld. AR relied upon following

decisions wherein it has been held that the Proviso, though introduced subsequently through Finance Act, 2018, would apply retrospectively from 01.04.2003 i.e. when the section 50C itself was introduced in statute:

- (i) ITAT, Mumbai in Maria Fernandes Cheryl Vs. ITO, (2021) 123 taxmann.com 252 (Mumbai – Trib.)
- (ii) ITAT, Mumbai in Assistant Commissioner of Income-tax Vs. Sunil B Dalal, (2022) 145 taxmann.com 313 (Mumbai – Trib.)
- (iii) ITAT, Surat in Girdharbhai Haribhai Gajera Vs. ITO, (2023) 149 taxmann.com 463 (Surat – Trib.)

5. We have carefully considered submissions of Ld. AR and facts of case in the light of provision of section 50C and above-mentioned case laws. In above mentioned decisions, it has been held that the 3rd Proviso to section 50C(1), as introduced by the Finance Act, 2018, operates retrospectively with effect from 01.04.2003, i.e., the date on which section 50C itself was brought on the statute. The legislative intent behind the said Proviso is to provide a safe harbour to assessee where the difference between the actual sale consideration and the stamp duty valuation does not exceed 5% of the actual sale consideration. In present case, the actual sale consideration (assessee's ½ share) was Rs. 42,00,000/- whereas the stamp duty valuation (assessee's ½ share) was Rs. 42,50,000/-. The difference of Rs. 50,000/- works out to approximately 1.19% of the actual sale consideration, which is

well within the safe harbour limit of 5% prescribed under the said Proviso. Therefore, in the light of decisions, we agree that the invocation of section 50C by the lower authorities and adoption of Rs. 42,50,000/- as the full value of consideration, is not sustainable in law. Accordingly, we direct the AO to adopt Rs. 42,00,000/- as the full value of consideration for computing the capital gains in the hands of the assessee. Necessary computation shall be done by AO. The ground of appeal raised by the assessee is thus allowed.

6. Resultantly, this appeal is allowed.

Order pronounced in open court on 17/04/2026

Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 17/04/2026

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore