

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अवधेश कुमार मिश्र, लेखा सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM &
SHRI AVDHESH KUMAR MISHRA, AM

आयकर अपील सं. / ITA No: 702/RPR/2025
(निर्धारण वर्ष Assessment Year: 2008-09)

Mahesh Shrivastava, House No. 6, Phase-II, Harsh Vihar Colony, Daldalshivni Road, Mowa, Raipur-492007, C.G.	vs	Income Tax Officer-3(1), Office of the Income Tax Office, Central Revenue Building Civil Lines, Raipur-492001, C.G.
PAN: BQFPS6242G		
(अपीलार्थी/Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri Veekas S Sharma, CA
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	05.01.2026
घोषणा की तारीख / Date of Pronouncement	:	05.02.2026

आदेश / O R D E R

Per Avdhesh Kumar Mishra, AM:

This appeal for Assessment Year ('AY') 2008-09 filed by the assessee is directed against the order dated 30.09.2025 of Commissioner of Income Tax (Appeals), NFAC, Delhi ['CIT(A)'].

2. The assessee has raised following grounds of appeal: -

1. *"On the facts and in the circumstances of the case, the Learned A.O has erred on facts and in law in making addition of Rs.74,46,583/- on account of Long Term Capital Gain by invoking Section 50C of the Income Tax Act, 1961 based on value adopted for stamp duty purposes at Rs.1,60,31,000/- (assessee's 1/6th share being Rs.26,71,833/-) and the Learned CIT (Appeals), National Faceless Appeal Centre, Delhi has erred in conforming the addition of Rs.74,46,583/- disregarding the provisions of Section 54F as the actual sale consideration amounting to Rs.21,75,000/- (being 1/6th of Rs.1,30,50,000/-) stood reinvested entirely which*

entitles the assessee for exemption u/s 54F from whole amount of Long Term Capital Gain as held by the Hon'ble Bench in ITA No. 303/RPR/2024 dated 23.08.2024 in the case of assessee's brother namely Shri Naresh Kumar Shrivastava, hence, it is prayed that the addition of Rs.74,46,583/- made by the Ld. A.O. and confirmed by the Learned CIT(Appeals) may kindly be deleted.

2. *On the facts and in the circumstances of the case, the Learned A.O has erred on facts and in law by making an addition of Rs.74,46,583/- on account of Long Term Capital Gain by invoking the provisions section 50C of the Income Tax Act, 1961 which has been further confirmed by the Learned CIT(Appeal), Delhi, despite of the fact that the Learned CIT(Appeal), Delhi in the identical case of the assessee's brother namely Shri Naresh Shrivastava relating to the same property had deleted the addition of Rs.69,13,333/- vide order dated 01.05.2024 in view of determination of FMV at Rs.1,60,31000/- (assessee's 1/6th share being Rs.26,71,833/-) by the Court of Collector of Stamp vide order dated 30.09.2021 and the Hon'ble ITAT, Raipur Bench vide order dated 23.08.2024 deleted the entire addition in the said case, therefore, in view of the parity of facts and keeping in view the principles of consistency, it is prayed that the addition made by the Ld. A.O and sustained by the Ld. CIT(Appeal) ,may kindly be directed to be deleted.*
3. *The Appellant caves leave to add, amend, alter vary and / or withdraw any or all the above grounds of Appeal."*
3. The genesis of this appeal, as evident from the record, are that the appellant assessee has filed his original Income Tax Return ('ITR') of the relevant year declaring income of Rs.95,000/- on 30.03.2009. Later on, the case was reopened on the reasoning that the Capital Gains determinable under section 50C of the Income Tax Act, 1961 ('Act') on transfer of the land by the appellant assessee during the relevant year had escaped assessment. The appellant assessee along with his siblings (assessee's share is 1/6th) had sold land, situated at Labhandi, Raipur, admeasuring 16.71 Acres (6.66 Hectare) for Rs.1,30,50,000/- in the relevant year. However, the Stamp Valuation Authority/Sub-Registrar, at the time of registration of the said sale deed, holding that the sale consideration of Rs.1,30,50,000/- was quite lesser than the market value of the said property,

valued the said property at Rs.5,75,11,000/- for stamp purposes and charged stamp thereon. On the said information, the Ld. Assessing Officer ('AO') reopened the case and completed the consequential assessment under section 147 r.w.s 143(3) of the Act on 29.03.2016 by adopting the sale consideration at Rs.5,75,11,000/- instead of Rs.1,30,50,000/- for computing Capital Gains under section 50C of the Act. This resulted in the addition of Rs.74,50,583/- under the head Capital Gains in the case of the appellant assessee. While computing the Capital Gains of Rs.74,50,583/- instead of NIL declared by the appellant assessee, the Ld. AO allowed the claim of exemption of Rs.19,64,099/- under section 54F of the Act as against the assessee's claim of allowability of entire Capital Gains as per deeming provisions. Aggrieved with the said assessment order dated 29.03.2016, the assessee filed appeal before the Ld. CIT(A), who dismissed the appeal as under:

"6.1 After careful consideration of the facts, submissions made by the appellant, and relevant legal provisions, I find that the Assessing Officer has correctly invoked Section 50C of the Income Tax Act, 1961 and computed the capital gains by adopting the stamp valuation determined by competent authority.

6.2 The conditions precedent for application of Section 50C are clearly satisfied in this case. The consideration received by the appellant was less than the value adopted by stamp valuation authority for the purpose of payment of stamp duty. The stamp valuation authority, being the Collector of Stamps, is undoubtedly an authority of State Government within the meaning of Section 50C.

6.3 The interaction between Section 50C and Section 54F has been correctly handled by the Assessing Officer. Section 50C applies at the stage of computation of capital gains while Section 54F applies at the stage of granting exemption. The exemption under Section 54F has been allowed on the capital gains computed in accordance with law.

6.4 The appellant has not made any claim under Section 50C(2) before the Assessing Officer, nor has the appellant challenged the stamp valuation under the

Stamp Act. Therefore, there was no obligation on the Assessing Officer to refer the matter to Departmental Valuation Officer.

6.5 The various factors relating to condition of property and circumstances of sale do not negate the applicability of Section 50C, which is a deeming provision that must be given full effect in accordance with settled legal principles.

7.1 In view of the detailed discussion above and after considering all the grounds raised by the appellant, I find no merit in any of the grounds of appeal. The assessment order passed by the Assessing Officer is legal, proper and in accordance with the provisions of the Income Tax Act, 1961.

7.2 The appeal filed by the appellant is hereby dismissed. The assessment order dated 29.03.2016 passed by ITO-3(3), Raipur under Section 147 read with Section 143(3) for Assessment Year 2008-09 is hereby confirmed.

7.3 The application for admission of additional evidences filed by the appellant under Rule 46A is also rejected for the reasons stated above.”

4. At the outset, Shri Veekas S Sharma, CA, the Ld. Authorized Representative ('AR') of the assessee drew our attention to the chronology of case for proper appreciation of the facts. The same is summed up herein for proper appreciation of the facts of the case in hand. The appellant assessee along with his parents and siblings entered into an agreement, in 1964, to purchase the land under reference situated at Labhandi, Raipur from Shri Narendra Parekh @ Rs.45,000/- Per Acre. The said agreement could not materialize due to some disputes; therefore, it culminated into a Civil Suit No. 10-A/2007. Later on, the said civil suit was decided in favour of the assessee, his parents and siblings. During the course of pendency of the said Civil Suit, the assessee along with his siblings entered into an agreement dated 04.03.2006 to sell the land under reference to Shri Mohammaed Asgar, Managing Director of M/s Raipur Construction Private Limited. The said agreement had been acknowledged in the decision of the said

Civil Suit. After the finalization of Civil Suit, the said land under reference situated at Labhandi, Raipur was sold to Shri Mohammed Asgar for Rs.1,30,50,000/- as per the agreement dated 04.03.2006. However, the said agreement to sale was registered subsequently in the relevant year. At the time of registration of the said sale deed under reference, the Sub-registrar/Stamp Valuation Authority adopted the valuation at Rs.5,75,11,000/- (@Rs.85,00,000/- per Hectare) for stamp purposes as against the sale consideration of Rs.1,30,50,000/- as per the deed. Further, the Sub-registrar/Stamp Valuation Authority, at the time of registration of the said property, referred the matter to the Collector of Stamps, Raipur under section 47-A(2) of the Indian Stamp Act, 1899. The Collector of Stamps, Raipur partly reduced the value of Stamp Duty from Rs.85,50,000/- Per Hectare to Rs.45,21,011/- Per Hectare. The valuation done by the Collector of Stamps, Raipur was challenged before the Board of Revenue, who vide its decision dated 25.06.2009, held that the value of property @ Rs.32,50,000/- per Hectare for stamp purposes. The said decision of the Board of Revenue was further challenged by the State of Chhattisgarh, through District Registrar, Raipur before the Hon'ble High Court of Chhattisgarh at Bilaspur vide Writ Petition (C) No. 7438 of 2009. who vide order dated 20.09.2011, set aside the order of the Board of Revenue as well as the order passed by the Collector of Stamps and remitted the matter to the Collector of Stamps, Raipur for assessing the value of the said land afresh for stamp purposes. The Collector of Stamps, Raipur, in pursuance of the order of Hon'ble Chhattisgarh High Court (supra), valued the said land at Rs.1,60,31,000/- for stamp purposes vide his order dated 30.09.2021. It was

submitted by the Ld. AR that the value of the said land at Rs.1,60,31,000/- determined by the Collector of Stamps, Raipur vide his order dated 30.09.2021 had attained the finality.

5. The Ld. AR further submitted that this appeal got squarely covered by the decision of ITAT, Raipur in case of one of the Siblings/Co-owners; namely, Shri Naresh Kumar Shrivastava in ITA No. 303/RPR/2024. Hence, he prayed for consequential relief. Further, the Ld. AR drew our attention to the order of Ld. CIT(A) in the case of Shri Naresh Kumar Shrivastava, wherein the Ld. CIT(A) had given the relief by taking the value of said land at Rs.1,60,31,000/- determined by the Collector of Stamps, Raipur in pursuance of the order of Hon'ble Chhattisgarh High Court (supra). He further submitted that the Ld. CIT(A), in the present case, not only took cognizance of the order dated 30.09.2021 of the Collector of Stamps, Raipur though the same was made available to him but also declined to allow the claim of exemption under section 54F of the Act. The dismissal of appeal by the Ld. CIT(A) was not justified, argued the Ld. AR. He, therefore, argued at length questioning the finding of Ld. CIT(A) in the present case by submitting that Ld. CIT(A) did not consider the value of said land at Rs.1,60,31,000/- which had attained finality. He drew our attention towards the findings of the Ld. CIT(A) in the case of Naresh Kumar Shrivastava (supra), wherein the Ld. CIT(A) worked out Capital Gains by taking the value of said land at Rs.1,60,31,000/- instead of Rs.5,75,11,000/-; however, the Ld. CIT(A), in the present case, did not take cognizance of the above mentioned facts while dismissing the appeal. The Ld. AR thus prayed for consequential relief by submitting that the value of said land had to

be taken at Rs.1,60,31,000/- instead of Rs.5,75,11,000/- for applicability of the provisions of section 50C of the Act. Further, he, in view of the finding of the Tribunal in the case of Shri Naresh Kumar Shrivastava (supra), prayed for entire exemption under section 54F of the Act. In support of the entire claim of exemption under section 54F of the Act, the Ld. AR placed reliance on the decisions in the cases of Krisnaswami S PD. & Another 281 ITR 305 (SC), Nilofer I Singh 309 ITR 233 (Del), Gouli Mahadevappa 356 ITR 90 (Kar), Gyan Chand Batra 133 TTJ 482 (ITAT, Jaipur), Raj Babbar 56 SOT 1 (ITAT, Mumbai) and Lalit Kumar Kalwar Sarwar 106 ITR (Trbu) 373.

6. On the other hand, the Ld. Sr. DR argued the case vehemently and prayed for dismissal of the appeal.

7. We have heard both parties at length and have perused the material available on the record. The issue in dispute before us are two folds; namely, (i) whether the value of said land at Rs.1,60,31,000/- determined by the Collector of Stamps, Raipur in pursuance of the order of Hon'ble Chhattisgarh High Court (supra) instead of the value of Rs.5,75,11,000/- determined by the Stamp Valuation Authority/Sub-Registrar has to be taken for working out capital gains under section 50C of the Act and whether the entire exemption under section 54F of the Act is allowed on deeming capital gains as it is impossible for the assessee to fulfil the conditions for availing the full exemption in spite of investing the entire net consideration in the eligible asset/residential house.

8. The applicability of provisions of section 50C of the Act is not in dispute. Only the value of sale consideration which has to be adopted for computing the capital gains under section 50C of the Act is in dispute. The relevant part of section 50C of the Act reads as under:

“50C.

(1) *Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government (hereafter in this section referred to as the "stamp valuation authority") for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purposes of section 48, be deemed to be the full value of the consideration received or accruing as a result of such transfer:*

(2) *Without prejudice to the provisions of sub-section (1), where—*

- (a) *the assessee claims before any Assessing Officer that the value adopted or assessed or assessable by the stamp valuation authority under sub-section (1) exceeds the fair market value of the property as on the date of transfer;*
- (b) *the value so adopted or assessed or assessable by the stamp valuation authority under sub-section (1) has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court,*

the Assessing Officer may refer the valuation of the capital asset to a Valuation Officer and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clause (i) of sub-section (1) and sub-sections (6) and (7) of section 23A, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (27 of 1957), shall, with necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Assessing Officer under sub-section (1) of section 16A of that Act.

Explanation 1 — For the purposes of this section, "Valuation Officer" shall have the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).

Explanation 2 — For the purposes of this section, the expression "assessable" means the price which the stamp valuation authority would have, notwithstanding anything to the contrary contained in any other law for the time being in force, adopted or assessed, if it were referred to such authority for the purposes of the payment of stamp duty.

(3) Subject to the provisions contained in sub-section (2), where the value ascertained under sub-section (2) exceeds the value adopted or assessed or assessable by the stamp valuation authority referred to in sub-section (1), the value so adopted or assessed or assessable by such authority shall be taken as the full value of the consideration received or accruing as a result of the transfer."

[Emphasis supplied]

9. On-going through the above provisions of section 50C of the Act, it transpires that where the full value of consideration shown to have been received or accruing on the transfer of a capital asset, being land or building or both, is less than the value adopted or assessed or assessable by stamp valuation authority, the value so adopted or assessed or assessable shall, for the purposes of Section 48 of the Act, be deemed to be full value of consideration received or accruing as a result of such transfer. It is a deeming provision, and it covers land or building or both. It is manifest that a deeming provision has been incorporated to substitute the value adopted or assessed or assessable by stamp valuation authority in place of consideration received or accruing as a result of transfer, in case the latter is lower than the former. It, therefore, follows that only if a capital asset being land or building or both is transferred and the consideration received or accruing as a result of such transfer is less than the value adopted or assessed or assessable by the stamp valuation authority, the deeming fiction under sub-sec. (1) of Section 50C of the Act shall be activated to substitute such adopted or assessed or assessable value as full value of consideration received or accruing as a result of such transfer in the given situation.

10. Explanation 2 of section 50C of the Act clearly provides that the value so determined on reference to any Authority under the law has to be taken as sale value for stamp purposes. In the case in hand, the Sub-registrar/Stamp Valuation Authority, at the time of registration of the said property, referred the stamp valuation matter to the Collector of Stamps, Raipur under section 47-A(2) of the Indian Stamp Act, 1899. The said valuation, after prolonged litigation as detailed above in para 4 of this order, attained finality at Rs.1,60,31,000/-, which was determined by the Collector of Stamps, Raipur in pursuance of the order of Hon'ble Chhattisgarh High Court (supra). For applicability of Explanation 2 of section 50C of the Act, there is no need to invoke section 50C(2) of the Act. The use of word 'assessable' in section 50C of the Act takes care of all situation where purchaser/seller and or the Sub-registrar/Stamp Valuation Authority has challenged/referred the valuation of the property for stamp purposes to the Hon'ble Court/any authority. Here, the value of said land for stamp purposes has attained finality at Rs.1,60,31,000/- instead of Rs.5,75,11,000/-. Thus, in such facts and circumstances, we are of the considered view that the value of said property at Rs.1,60,31,000/- has to be taken for computing capital gains under section 50C of the Act. We therefore order accordingly. We thus, direct the Ld. AO to take the sale consideration of Rs.1,60,31,000/- instead of Rs.5,75,11,000/- for computing capital gains under section 50C of the Act and to allow the consequential relief to the appellant assessee accordingly.

11. The next issue is with respect to exemption under section 54F of the Act. Section 54F of the Act provides exemption in the case of individual or HUF who

transfers a long-term capital asset (other than residential house) and reinvests the net sale consideration in acquisition or construction of residential house. The conditions embedded in section 54F of the Act for claiming exemption therein are (i) the capital asset should be long-term (other than residential house); (ii) the assessee within a period of one year before or two years after the date of transfer purchases a residential house; or within a period of three years after the date of transfer constructs a residential house; (iii) the quantum of reinvestment eligible for exemption is with reference to net sale consideration. Where the cost of new asset is not less than net consideration the entire capital gain is deductible and where the cost of new asset is less than net consideration, the proportionate investment in new asset as it bears on the net sale consideration in the same proportion the capital gain would be deductible; (iv) the assessee on the date of transfer of long-term capital asset should not own more than one residential house (other than the new asset) or purchase any residential house other than new asset within a period of one year after the date of transfer of the original asset or construct any residential house, other than the new asset, within a period of three years after the date of transfer of the original asset. The assessee may park the sale consideration or part of the sale consideration in capital gain account within the specified time as per section 54F(4) of the Act to avail exemption with certain conditions therein.

12. In the case in hand, the assessee submitted that the entire sale consideration was reinvested in the construction of residential house. However, the Ld. AO adopted the value of stamp valuation authority as deemed sale consideration and

completed the assessment and did not allow the claim of entire exemption under section 54F of the Act on deeming capital gains though the appellant assessee claimed that it was impossible for the assessee to fulfil the conditions for availing the full exemption in spite of investing the entire net consideration in the eligible residential house. In the case in hand, the Ld. AO adopted deemed sale consideration and not the apparent consideration for working out the quantum of exemption under section 54F of the Act. The basis for such adoption being the provisions of section 50C of the Act.

13. We have perused the case laws relied upon by the Ld. AR and the Tribunal order in the case of Shri Naresh Kumar Shrivastava (*supra*) and found force in the arguments/contentions/submissions of the Ld. AR that these cases are squarely applicable on the issue of exemption under section 54F of the Act. We are of the considered view that the deeming fiction provided for computing full value of consideration is only for determining full value of consideration as defined in section 48 of the Act and for the purpose of computing capital gains under deeming fiction provided in section 50C of the Act and this deeming fiction cannot be applied for exemption under section 54F of the Act. Our view gets buttressed by the decision of the Hon'ble Supreme Court in the case of Amarchand N. Shroff 48 ITR 59, wherein it has been held that a deeming provision cannot be extended beyond the purpose for which it is enacted. Similar view was reiterated by the Hon'ble Supreme Court in the case of Mother India Refrigeration Industries (P.) Ltd. 155 ITR 711 by laying down that "legal fictions are created only for some definite purpose and these must be limited to that purpose and should not be

extended beyond their legitimate field". In view of the above decisions of the Hon'ble Supreme Court, it is clear that a deeming provision can be applied only in the scope of the law and not beyond the explicit mandate of the section.

14. In view of the above, we are of the considered view that deeming sale consideration as per the provisions of Section 50C of the Act is not applicable for exemption under section 50F of the Act. The rationale is that one cannot expect a person to perform impossible things. When the person receives a particular sum, he cannot be expected to invest any amount over and above the amount of consideration received for transfer of property. The legal maxim "*lex non cogitat impossibilia*", which means that the law cannot possibly compel a person to do something which is impossible to perform. The Hon'ble Supreme Court in the case of Krishnasamy S. Pd v. Union of India [2006] 151 Taxman 286/281 ITR 305 has upheld this maxim. Thus, if provisions of section 50C of the Act is applied in section 54F of the Act, then it is impossible for the assessee to fulfil the conditions for availing the full exemption in spite of investing the entire net consideration in a new residential house. Accordingly, we hold that where the assessee claims exemption under section 54F of the Act, the net consideration when deployed in acquisition or construction of residential house, it should be eligible for exemption and the provisions of section 50C should not be imported for such computation. We thus, hold that the value adopted for computing capital gains under section 50C of the Act can not be treated as net consideration in respect of the original asset which was transferred. We, therefore, direct the Ld. AO to allow the complete exemption under section 54F of the Act as the cost of new asset is not

less than the net consideration in respect of the original asset. Ordered accordingly.

15. In the result, the appeal of the assessee is **allowed** as above.

Order pronounced in the open court on 05/02/2026.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(AVDHESH KUMAR MISHRA)
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर / Raipur; दिनांक Dated 05/02/2026
Vaibhav Shrivastav, Stenographer/HKS, PS

आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant- Mahesh Shrivastava, Raipur
2. प्रत्यर्थी/ The Respondent- ITO, Ward-3(1), Raipur
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,
//True Copy//

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur