आयकरअपीलीयअधिकरण, पुणेपीठें, पुणे
INCOME TAX APPELLATE TRIBUNAL,
PUNE BENCH 'A', PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

ITA Nos. 1481 to 1483/PUN/2026 (निर्धारणवर्ष/AssessmentYear:**2016-2017**)		
CHETANA RESORTS PRIVATE LIMITED 1/SAA, SWARANJALI PARK, CHETNA NAGAR,, AURANGABAD-431001, MAHARASHTRA	**Vs.**	**INCOME TAX OFFICER, CIRCLE 1, AURANGABAD.**
अपीलार्थीAppellant		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee**:**		**AACCC4736G**
अपीलार्थीद्वारा/Appellant represented by:		**Shri Ramesh Thete (Through Physical)**
प्रत्यर्थीद्वारा/Respondentrepresented by:		**Shri Uodol Raj Singh**

सुनवाईकीतारीख/Date of conclusion of hearing:	**08.10.2026**
घोषणाकीतारीख/Date of pronouncement:	**12.10.2026**

आदेश / ORDER

PER VINAY BHAMORE, JUDICIAL MEMBER:

ITA No.1481/PUN/2026 is filed by the Assessee against the order of ld.CIT(A)/NFAC dated 05th March, 2026 which inturn arising out of Assessment order passed u/s.147 r.w.s.144 of the of the Income Tax Act, 1961 (in short 'the Act'). ITA Nos. 1482 and 1483/PUN/2026 are filed by the Assessee against the separate orders of ld.CIT(A)/NFAC dated 05.03.2026 emanating out of respective Penalty orders passed u/s.271(1)(c)/271D of the Income Tax Act, 1961 (in short 'the Act').

2. We first take up ITA No.1481/PUN/2026. Brief facts as emanating from the record are that the assessee is a company andhas not filed the return of income for A.Y. 2016-17 Based on the information available on Insight Portal of the Department flagged by Investigation Wing, Aurangabad, case of the assessee was reopened and notice u/s.148 of the Act was issued to the assessee. In response to notice u/s.148 of the Act, assessee filed the return of income declaring Nil income. During the course of reassessment proceedings, ld. Assessing Officer observed that assessee has sold an immovable property for a consideration of Rs.5,85,000/- however, the market value of the property as per the Govt. valuation was found to be Rs.92,76,884/-. There was no response from the side of assessee to the various notices issued u/s.148, 143(2) and 142(1) of the Act. In the absence of any explanation along with the details regarding the property sold, ld. Assessing Officer treated the said income as unexplained short term capital gain u/s.45 of the Act.

3. Assessee carried the matter before ld.CIT(A) but failed to succeed and now the assessee is in appeal before this Tribunal by raising the following grounds of appeal :

1) *Ground on Confirmation of Addition u/s 45 r.w.s. 50C That the learned CIT(A) has erred in confirming the addition of Rs. 92,76,884 as Short Term Capital Gain under section 45 read with section 50C, without properly appreciating the facts, evidences and legal position, and the addition sustained is arbitrary, unjustified and liable to be deleted.*

2) *Ground on Year of Taxability / Transfer u/s 2(47) That the learned CIT(A) has erred in not appreciating that the transfer of the property had already taken place in the year 1996 by way of a valid agreement to sale coupled with handing over of possession and receipt of full consideration, and therefore no transfer took place during the year under consideration i.e. A.Y. 2016-17, and consequently no capital gain could be brought to tax in the impugned year.*

3) *Ground on Non applicability of Section 50C That the learned CIT(A)*

has erred in confirming the action of the Assessing Officer in invoking section 50C, without appreciating that the impugned transaction was substantively completed prior to insertion of section 50C (w.e.f. 01.04.2003), and therefore the deeming provisions of section 50C are not applicable to the facts of the present case.

4) *Without Prejudice Applicability of Proviso to Section 50C That without prejudice to the above, the learned CIT(A) has failed to consider that WHARE the date of agreement and date of registration are different, the stamp duty value as on the date of agreement ought to have been considered, and not the value as on the date of registration, and hence the adoption of stamp value of Rs. 92,76,884 is contrary to law.*

5) *Residual Ground That the appellant craves leave to add, amend, alter, vary OR withdraw any of the above grounds at OR before the time of hearing.*

4. Ld. Counsel for the assessee submitted the immovable property in question has been sold by way of an Agreement to Sale with Ms. VijayaPremsingBarwal in respect of the property bearing CTS No.15852/15 to 17 and 19, Chetana Nagar, Aurangabad on 04.10.1996. The agreed consideration for Shop No. U-6 was stated to be Rs.3.10 lakh and for shop U-7 was stated to be Rs.2.75 lakh aggregating to Rs.5.85 lakh. Total consideration was received by the assessee and possession was handed over in the year 1996 itself, however, the registration deed was executed in November, 2015. Execution of the Sale Deed in 2015 is merely for the completion of the transaction already entered into and acted upon in the year 1996. Therefore, ld. Counsel contends that the transfer of the property took place in the year 1996 itself. Ingredients of section 2(47)(v) stands fulfilled. Ld. Counsel for the assessee submitted that ld. Assessing Officer erred in treating the transfer of the immovable property in the year 2015 as short term capital gain as deemed consideration invoking section 50C of the Act. Ld. Counsel for the assessee submitted that amendment to section 53A has been made effective from 24.09.2001 and therefore the transaction

cannot be held to invalid. Ld. Counsel relied on the relied on the following decisions of this Tribunal as they are squarely applicable on the facts of the assessee:

i. Shri KaluNamdeoNandgude Vs. ITO – ITA No.1598/PUN/2015 dated 09.11.2018

ii. Vasant LaxmanKhandge and Santosh D. Khandge vs. ITO – ITA Nos. 653 & 652/Pun/2017 dated 23.12.2020

5. On the other hand, ld. DR heavily relied on the orders of the authorities below

6. We have heard both the sides and perused the material available on record and the decision relied upon by the ld. Counsel for the assessee. There is no dispute that assessee has sold an immovable property. The solitary issue which arises for our consideration is that whether the authorities were justified in treating the transaction of sale of immovable property as an invalid transaction since the Agreement to sale was entered into in the year 1996 whereas the same was finally registered in the year 2015. Admittedly in the instant case, assessee has not participated in the proceedings before the ld. Assessing Officer and in absence of any explanation/details from the side of assessee, ld. Assessing Officer based on the information available with him treated the Govt. value of the property at Rs.92,96, 884/- as deemed consideration as short term capital gain u/s.50C of the Act as against the sale consideration alleged stated to be Rs.5,85,000/-.

7. We observe that in this case Agreement to Sale has been entered by the assessee with Ms.VijayaPremsingh Barwal on 04.10.1996 for a consideration of Rs.5,85,000/- in the commercial complex known as

Manik Arcade and the entire consideration was received and the possession was handed over in 1996 itself and what is left is mere execution and registration of sale deed which took place in the year 2015.

8. We observe that first proviso to section 50C(1) of the Act unequivocally states that if the date of agreement fixing the amount of consideration is different from the date of registration for the transfer of capital asset taking place subsequently, the stamp value should be considered with reference to the date of agreement and not the date of registration. Since the full value of consideration has been received in the year 1996 itself, by way of cheque, the stamp duty value needs to be considered as on the date of agreement took place, i.e on 04/10/1996 and the stamp value has to be considered as on the date of agreement u/s.50C for the purpose of computation of capital gain u/s.45 of the Act.

9. In view of our above discussion in preceding paragraphs, we deem it appropriate to set-aside the order passed by Ld. CIT(A) and restore the matter back to the file of the Jurisdictional Assessing Officer with a limited direction to verify the transactions in light of proviso to section 50C(1) of the IT Act and re-compute the capital gain in accordance with law. Ground no.4 raised by the assessee is allowed for statistical purposes. Since we have restored the matter back to the file of the Jurisdictional Assessing Officer for recomputation of capital gain by allowing ground no.4, the other grounds become infructuous and hence not adjudicated by us.

10. Since the issue of determination of correct capital gain has been restored back to the file of the Jurisdictional Assessing Officer, the issue of penalties levied u/s.271(1)(c) and u/s.271D of the Act being

consequential in nature are also restored back to the file of the Jurisdictional Assessing Officer with a direction to decide the same upon disposal of quantum addition.

11. In the result, all the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 12th October, 2026.

Sd/-	**Sd/-**
(R.K. PANDA)	(VINAY BHAMORE)
VICE PRESIDENT	JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 12th October, 2026
Sujeet/DOC

Sujeet Kumar Sharma
Digitally signed by Sujeet Kumar Sharma
Date: 2026.10.13 11:51:34 +05'30'

Copy to:

1	**CHETANA RESORTS PRIVATE LIMITED, 1/SAA, SWARANJALI PARK, CHETNA NAGAR,, AURANGABAD-431001, MAHARASHTRA**
2	**INCOME TAX OFFICER, CIRCLE 1, AURANGABAD., THE OFFICE OF INCOME TAX DEPARTMENT, ITO CIRCLE 1, LIC BUILDING, CANNOUGHT PLACE, JALGAON RD, AURANGABAD, MAHARASHTRA 431003, INDIA, AURANGABAD-431003, MAHARASHTRA**
3	THE PCIT / CIT,
4	THE D.R., ITAT, PUNE BENCH
5	GUARD FILE

आदेशानुसार/ BY ORDER,

// True Copy //

Assistant Registrar
आयकरअपीलीयअधिकरण ,पुणे /
ITAT, Pune