IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES, "A" BENCH, JAIPUR

BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER
&
SHRI T. R. SENTHIL KUMAR, JUDICIAL MEMBER

ITA No.1311/JPR/2025
(Assessment Year:2019-20)

M/s Mama Foods Kalani & Co LLP, Chartered Accountants, 5th Floor, Milestone Building, Gandhinagar Turn, Tonk Road, Jaipur	Vs.	ACIT Central Circle Alwar
स्थायीलेखासं./जीआइआरसं./PAN/GIR No:ABKFM 9933B		
Appellant	..	Respondent

Appellant by :	Sh. P.C. Parwal, CA
Respondent by :	Sh. Anand Swaroop, CIT

Date of Hearing	20.07.2026
Date of Pronouncement	09.10.2026

O R D E R

Per Annapurna Gupta, AM:-

The present appeal has been filed by the assessee against the order passed by the Office of the Commissioner of Income Tax, Appeal CIT(A), Jaipur 04 (hereinafter referred to as "Ld. CIT(A)"), dated

08.08.2025 under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act").

2. The grounds raised by the assessee read as under:-

1. The Ld. CIT(A) has erred on facts & in law in confirming the addition of Rs.3,89,98,000/- u/s 56(2)(x) of IT Act, 1961 by not accepting the contention of assessee that it only acquired the leasehold rights in the land purchased from M/s Eicher Goodearth Pvt. Ltd. whereas section 56(2)(x) is applicable on purchase of land & building and not on acquisition of the leasehold rights.

2. The Ld. CIT(A) has erred on facts & in law in not accepting the request of the assessee for referring the matter to DVO as per third proviso to section 56(2)(x) by holding that assessee has not furnished any evidence of request made to the AO for referring the matter to DVO for valuation of property and therefore the claim of the assessee is not acceptable.

3. The appellant craves to alter, amend and modify any ground of appeal.

4. Necessary cost be awarded to the assessee

3. The solitary issue in the present appeal relates to the applicability of the provision of Section 56(2)(x) of the Act to the transaction of purchase of immovable property by the assessee resulting in an addition of Rs.3,89,98,000/- being made to the income of the assessee.

4. As per the provisions of Section 56(2)(x) of the Act, where any person is found to have received from any other person any immovable property without consideration or for consideration less than the stamp duty value then the excess of the stamp duty value of the property purchased to the actual consideration paid is to be treated as income of the assessee from other sources. In the facts of the present case this excess was found to be tune of Rs.3.89 crores, the assessee firm M/s Mama Foods having purchased property No.SP-9-MIA, Alwar from M/s Eicher Goodearth Pvt. Ltd. for consideration of Rs.8,17,94,000/- vide sale

deed dated 27.03.2019and the Sub Registrar II, Alwar having adopted the registered value of such property to Rs.12,07,92,000/-.The assessee had acquired the plot of land from M/s Eicher Goodearth Pvt. Ltd. on lease.

5. The contention of the assessee all along was that the provisions of Section 56(2)(x) of the Act are not applicable to immovable properties acquired on lease. The Ld. CIT(A) rejected this contention of the assessee relying on the decision of the Hon'ble Bombay High Court in the case of **Vidarbha Veneere Industries Ltd. Vs. ITO [2025] 174 taxmann.com 223 (Bombay)** wherein the Hon'ble High Court in the context of Section 50C of the Act held the mode of holding the immovable property whether by way of lease would be would be immaterial for the purpose of applicability of Section 50C of the Act. The Ld. CIT(A) held that provisions of Section 50C of the Act are pari materia to Section 56(2)(x) of the Act, and therefore, the assessee's case was covered by the said decision.

6. Additionally he examined the facts on record of the transaction and noted that:-

- The assessee had acquired the property through a registered sale deed.
- The seller had the right to choose the buyer.
- The sale was not routed back through RIICO, and RIICO merely recorded the name of the new lessee.
- The rights enjoyed were substantially perpetual and transferable, akin to ownership.

7. Noting these factors, he held that it indicated that the assessee acquired a capital asset in the form of land and building held on a long term lease, and the transaction was not a mere temporary licensing of use. That therefore the provisions of Section 56(2)(x) of the Act squarely applied to the facts of the case. His findings in this regard are contained at page 25 and 26 of his order as under:-

> .....
> *The assessee acquired leasehold rights from M/s Eicher Goodearth Pvt. Ltd., who in tum was allotted the land on a 99-year lease by RIICO in 1976. The appellant executed a transfer deed for 8.17 crore, while the stamp valuation authority valued the property at 12.07 crore, resulting in a differential of 3.89 crore.*
>
> *It is relevant here to consider the legal character of such long-term leasehold rights. The appellant's argument rests on the premise that what was transferred was merely a "right", not "land or building" itself. However, this position is untenable in law in light of the recent decision of the Hon'ble Bombay High Court in Vidarbha Veneer Industries Ltd. v. ITO [2025] 174 taxmann.com 223 (Bom).*
>
> *In that case, the Hon'ble High Court, interpreting section 50C read with section 2(14) of the Act, held that:*
>
> - *The expression **"held by the assessee"** in section 2(14) is not limited to ownership but includes **lessee, sub-lessee, allottee, tenant,** etc.*
> - *A long-term lease assignment, such as 99 years, with transferable rights, falls within the meaning of "capital asset being land or building or both".*
>
> - *The **mode of holding is immaterial**; what matters is the nature and extent of rights held.*
>
> *This judgment directly addresses the appellant's argument and rejects the narrow interpretation that only freehold ownership attracts section 50C. The Court clarified that leasehold rights, especially in long-term industrial leases with assignability, are a species of capital asset and indistinguishable in affect from ownership for tax purposes.*
>
> *Furthermore, section 56(2)(x), being a deeming provision akin to section 50C, applies to the recipient of immovable property for inadequate consideration. It is a settled position in tax jurisprudence that deeming provisions should be construed strictly but applied fully within their intended scope. Section 56(2)(x) refers to "any immovable property, being land or building or both", and does not limit its application to freehold ownership.*

The appellant's reliance on section 54D is misplaced. Section 54D, which pertains to exemption from capital gains on compulsory acquisition, explicitly distinguishes between land/building and rights therein. However this provision is not relevant tosection 56(2)(x), which does not incorporate such a distinction. Moreover, the analogy with section 5(1) of the Wealth Tax Act is of no aid, as the definition and context of wealth tax differ materially from those in the Income Tax Act.

Additionally, the facts on record demonstrate that

- *The appellant acquired the property through a registered sale deed.*
- *The seller (M/s Eicher Goodearth Pvt. Ltd.) had the right to choose the buyer.*
- *The sale was not routed back through RIICO, and RIICO merely recorded thename of the new lessee.*
- *The rights enjoyed are substantially perpetual and transferable, akin to ownership.*

These features clearly indicate that the assessee acquired a capital asset in the form of land and building held on a long-term lease, and the transaction is not a mere temporary licensing of use. As such, the provisions of section 56(2)(x) squarely apply.

Therefore, considering the discussion made in pre-paragraph and respectfully following the ratio of judgement laid down in above mentioned case, the contention of the appellant that only rights have been transferred and ownership has not been transferred and section 56(2)(x) of the Income Tax Act, 1961 do not apply on transfer of lease rights in leasehold land is without merit, hence rejected. Accordingly, the addition made by Id. AO under section 56(2)(x) amounting to Rs.3,89,98,000/- is hereby sustained.

……

8. The contention of the ld. Counsel for the assessee before us, was that the decision of the Hon'ble Bombay High Court in the case of Vidarbha Veneere Industries Pvt. Ltd. (Supra) was rendered in the context of Section 50C of the Act and the Hon'ble Karnataka High Court in the case of **V.S. Chandrashekar Vs. CIT [2021] 129 taxmann.com 273 (Karnataka)** had held to the contrary, stating that the provisions of Section 50C of the Act would apply only with respect to land sold and not to any rights therein and therefore provisions of Section 50C of the Act would not apply to leasehold rights.

- His contention therefore was that, in view of the contrary decisions of the Hon'ble High courts on the applicability of the provisions of Section 50C of the Act to transfer of leasehold rights in immoveable property, the view favouring the assessee would apply as held by the Hon'ble Apex Court in the case of **M/s Vegetable Products Vs. CIT 1973 AIR 927** .
- That noting the contrary decisionsof the Hon'ble Bombay High Court and the Hon'ble Karnataka High Court on the issue of applicability of Section 50C of the Act to transfer of leasehold rights in immoveable property, the ITAT Delhi Benches in the case of Rajesh Kumar Sharma Vs. CIT(A) in ITA No.1785/Del/2025 dated 29th September 2025 has held that the provisions of Section 56(2)(x) of the Act would not apply on land or building acquired through transfer of leasehold rights for the purposes of Section 56(2)(x) of the Act.
- That following the decision of the ITAT Delhi Benches in the case Rajesh Kumar Sharma (Supra), another decision of the ITAT Delhi Benches in the case of Neha Gupta Vs. ITO [2025] 179 taxmann.com 567 (Delhi Trib) dated 17.10.2025 held the provisions of Section 56(2)(x) of the Act not applicable on acquisition of land/ immovable property through transfer of leasehold rights.

9. Alternatively, it was also argued that the decision of the Hon'ble Bombay High Court in the case of Vidarbha Veneere Industries Pvt. Ltd.

(Supra) was rendered in the context of Section 50C of the Act wherein the Hon'ble High Court had interpreted the provisions of Section 50C of the Act which stated "*consideration received as a result* ***of transfer of a capital asset being land or building or both***" and referring to the definition of capital asset in Section 2 Sub-Section (14) of the Act, the Hon'ble Bombay High Court held that capital asset is defined in Section 2 Sub-Section (14) of the Act to include property of any kind "*held by an assessee*". The Hon'ble Bombay High Court went on to hold that the expression used in Section 2 Sub-Section (14) is "held by an assessee and not owned by assessee". Therefore, the meaning of holding the capital asset as leasehold or freehold is irrelevant for the purposes of Section 50C of the Act.

10. Ld. Counsel for the assessee contended that Section 56(2)(x) of the Act to the contrary refers to **receipt** of immovable property without consideration or for consideration less than its stamp duty value. The emphasis in Section 56(2)(x) of the Act is with respect to receipt of immovable property which is distinct from the ***transfer*** of capital asset used in Section 50C of the Act. Therefore, the decision of the Hon'ble Bombay High Court in the case of Vidarbha Veneere Industries Pvt. Ltd. (Supra) was not squarely applicable to Section 56(2)(x) of the Act.

11. He further expanded the above arguments contending that Section 56(2)(x) of the Act contemplates receipt of immovable property and not receipt of rights in immovable property which was distinct from receipt of immovable property. That where Legislature required it had specifically included the transaction of transfer of immovable property in the statue as

in Section 54D of the Act where it was specifically mentioned that where capital gain arose from the transfer of a capital asset being land or building or any "right in land or building" or the provisions of Section 269UA of the Act, where the transfer by way of lease of an immovable property was specifically included in the section.

12. Ld. DR per contra, relied on the order of the Ld. CIT(A) and further contended that the decision of the Hon'ble Bombay High Court was squarely applicable and there was no reason at all to treat the receipt of immovable property the term used in Section 56(2)(x) of the Act be restricted to only by way of ownership and not by way of leasehold rights.

13. Alternatively, the ld. Counsel for the assessee also argued that since the assessee had disputed the stamp duty value the matter ought to have been referred to D.V.O. for valuation purposes which had not been done in the present case and he referred to the decision of the ITAT in the case of Jaykishan Parchani Vs. ITO [2020] 116 taxmann.com 727 (Indore Trib) and the decision of the Hon'ble Calcutta High Court in the case of Sunil Kumar Agarwal Vs. CIT, Siliguri [2015] 372 ITR 83 (Calcutta) in this regard.

14. Ld. DR on the other hand contended that the assessee had not at any point had challenged the valuation adopted by the Stamp Duty Authorities and therefore there was no question of reference to be made to the D.V.O.

15. To this Ld. Counsel for the assessee countered by stating that the said decisions, referred above, took cognizance of objection made to the stamp duty valuation even at the appellate stage.

16. Considering the arguments by both the sides before us as above, the facts and the position of law can be narrowed down to:-

- Theland purchased by the assessee in the impugned year and to which the provisions of section 56(2)(x) of the Act were applied by the Revenue, was acquired by way ofpurchasing leasehold rights.
- The Ld. CIT(A) has held the provisions of Section 56(2)(x) of the Act applicable relying on the decision of the Hon'ble Bombay High Court in the case of Vidarbha Veneere Industries Pvt. Ltd. (Supra).
- The ld. Counsel for the assessee per contra has pointed out that the Hon'ble Karnataka High Court has held to the contrary in the case of V.S. Chandrashekar (Supra).
- The ITAT in the case of Rajesh Kumar Sharma (Supra) and Neha Gupta (Supra) has held Section 56(2)(x) of the Act to be pari materia to Section 50C of the Act and noting the contrary decision of the Hon'ble Bombay High Court and Hon'ble Karnataka High Court on the applicability of Section 50C of the Act to transfer of immovable property by way of a leasehold rights has held that the view favouring the assessee should be applied and accordingly held that the acquisition of immovable property by way of transfer of leasehold rights would not attract the provisions of Section 56(2)(x) of the Act.

17. The issue therefore of immoveable property acquired by way of purchase of leasehold rights, whether covered under the provisions of section 56(2)(x) of the Act stands decided in favour of the assessee by the decision of the ITAT as noted above. The said decisions have taken note of the decision of the Hon'ble Bombay high court in the case of Vidarbha Veneer (supra) holding section 50C of the Act to be applicable to immoveable property held by way of lease, and noting a contrary decision of the Hon'ble Karnataka High court , have applied the view favouring the assessee .

18. The Revenue before us has not been able to point out any distinguishing fact in the decision of the ITAT, nor was able to draw our attention to any decision of the Hon'ble Jurisdictional High Court orthe Hon'ble Apex Court in support of its contention.

19. In the light of the above, the decision of the ITAT Delhi Benches in the case of Rajesh Kumar(supra) and Neha Gupta(supra) will squarely apply to the facts of the present case following which we hold that the provisions of section 56(2)(x) do not apply to land acquired by the assessee by way of purchase of leasehold rights.

20. The arguments made by both the sides on whether the provisions of Section 50C of the Act are pari materia to Section 56(2)(x) of the Act have already been considered by the ITAT Delhi Benches in the cases of Rajesh Kumar Sharma (Supra) and Neha Gupta (Supra) wherein it was categorically held that two sections are pari materia.

21. The contention of the Revenue/Ld. CIT(A) that in substance the transaction was of sale of land and not transfer of leasehold rights ,is of

no consequence since the undisputed facts are that the assessee had acquired land from Eicher Motors by way of transfer of leasehold rights alone. Eicher Motors had been given the land on lease by RIICO for 99 years on 12-02-1976, which in turn was purchased by the assessee by way of transfer of leasehold rights on 27-03-19. RIICO in turn accorded permission for transfer of leasehold rights in the land to the assessee on 24-04-2019.

22. The addition made to the income of the assessee of Rs.3,89,98,000/- is therefore directed to be deleted.

23. In effect, the appeal of the assessee is **allowed.**

Order pronounced in the Open Court on 09.10.2026

Sd/-	Sd/-
(T.R. Senthil Kumar)	(Annapurna Gupta)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Dated 09.10.2026
Mittali, Sr. PS
Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

By Order,

Asst. Registrar
ITAT, Jaipur