

## **ITAT directs AO to consider actual value of property and not stamp duty valuation for capital gains calculation:**

Shri Goverdhan Prasad Singhal (2022 (ITAT) 766)

Facts:

1. The assessee has shown full value of consideration of the property received on transfer of capital asset, i.e., land and buildings at Rs.8,81,00,000/ whereas the Stamp Valuation Authority has fixed the value of the property at Rs.11,19,00,441/-.
2. The rate adopted by the Stamp Duty Valuation Authorities for the said land of the appellant is very much on the higher side when compared to the rate of Rs.2,500/- of the land in Argo Food Park which is adjacent to that of the appellant's land and shares a common boundary.
3. Despite objection raised by the appellant on adopting the stamp duty value, Assessing Officer has not referred the matter to the Divisional Valuation Officer (DVO) as required u/s.50C (2).

Note: Sec 50C (2) provides that where the assessee claims before any AO that the value adopted or assessed or assessable by the stamp valuation authority exceeds the fair market value of the property as on the date of transfer, the AO may refer the valuation of the capital asset to a Valuation Officer.

ITAT Jaipur held as below:

1. The failure of the AO to follow the procedure as prescribed under section 50C (2) in particular, and therefore, the CIT(A) action in confirming such order is held unjustified and against law by sustaining stamp duty value of property Rs 11,19,40,441/- as deemed sale consideration u/s 50C against actual sale consideration and fair market value Rs 8,81,00,000/-.
2. Accordingly, the AO is directed to adopt the value of sale consideration at Rs 8,81,00,000/- of the subject property for the purpose of computation of Long-Term Capital Gains.