

**IN THE INCOME TAX APPELLATE TRIBUNAL SURAT BENCH, SURAT  
(HYBRID HEARING)**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

I.T.A. No. 1120/SRT/2024  
(Assessment Year: 2012-13)

Sukhabhai Dayalbhai Patel, 53, Borbhatha Nagriyo, Hajira Road Choryasi, Surat-394510	Vs.	Income Tax Officer, Ward-2(3)(6), Surat
<b>[PAN No. BHFPP9739J]</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri P M Jagasheth, AR
<b>Respondent by:</b>	Shri Ajay Uke, Sr. DR

<b>Date of Hearing</b>	09.07.2025
<b>Date of Pronouncement</b>	01.08.2025

ORDER

**PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:**

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 19.09.2024 passed for A.Y. 2012-13.

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

“1. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner (A) has erred in confirming addition of Rs.45,3,640/- on account of Value determined by the DVO and passed the order as per provision of sec. 50C of the I.T. Act, 1961.

2. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in initiating penalty u/s. 271(1)(c) of the Income Tax Act, 1961.

3. It is therefore prayed that the above penalty may please be deleted as learned members of the tribunal may deem it proper.

4. *Appellant craves leave to add, alter or delete any ground(s) either before or in the course of the hearing of the appeal.”*

3. The brief facts of the case are that the assessee had not filed a return of income for the impugned year under consideration. The case of the assessee was selected for scrutiny after it was found that the assessee had executed a sale deed for an agricultural land measuring 5160 sq. mtr. located at Block No. 438 of Bhatha Village. Although the assessee had declared sale consideration at only ₹8 lakhs, the stamp valuation authority valued the property at ₹1,21,26,531/- at the time of registration on 13.09.2011. Based on this discrepancy, the case was reopened and an assessment was completed under sections 144 read with 147 of the Income Tax Act (Act) on 20.02.2015 and an addition of ₹1,21,26,531/- was made by the Assessing Officer under section 50C of the Act. The assessee filed appeal before the CIT(A), who dismissed the appeal. The matter then went to the ITAT, which restored the appeal back to the Assessing Officer with instructions to give the assessee a proper opportunity to present his case. During reassessment, the assessee's Authorized Representative (AR) requested that the property's value be referred to the District Valuation Officer (DVO). The AO did refer the property to the DVO on 21.09.2019, but no valuation report was received before the deadline for framing assessment. As the case was time-barred, the AO proceeded to estimate the fair market value using a comparable sale of land in nearby Block No. 224, Pal, Surat, and adopted ₹4 per sq. mtr as the fair market value as on 01.04.1981. Based on this estimate, the cost of acquisition was calculated at ₹20,640/-, which was then indexed to ₹1,62,024/-. Subtracting this from

the stamp duty value of ₹1,21,26,531/- resulted in a long-term capital gain of ₹1,19,64,507/-. The assessee argued that the property was sold for ₹8 lakhs, supported by a report from a registered valuer, and also claimed exemption under section 54B since new agricultural land was purchased on 15.05.2012 in Navsari district. However, the AO rejected these arguments, stating there was no merit in the assessee's claim and proceeded with the assessment based on the stamp duty valuation. Penalty proceedings under section 271(1)(c) were also initiated for furnishing inaccurate particulars of income.

4. In appeal, CIT(A) gave part relief to the assessee. CIT(Appeals) reviewed the grounds of appeal, assessment order, and the assessee's submissions and noted that the assessee sold immovable property for ₹8,00,000/-, whereas the stamp valuation authority valued the sale value of the property much higher at ₹1,21,26,531/-. However, the property was referred to the District Valuation Officer (DVO), who estimated its fair market value as on the date of sale (13.09.2011) at ₹69,66,000/-, as per his report dated 28.07.2021. This led to a downward revision in the valuation used for computing capital gains. CIT(Appeals) held that under section 50C of the Act, if the actual sale consideration is lower than the stamp duty value (₹1,21,26,531/-), then the latter is deemed to be the full value of consideration unless the assessee contests it and a reference is made to the DVO. In this case, since such a reference was made and the DVO's valuation was available, CIT(Appeals) reduced the addition to

₹45,35,640/-. As a result, the appeal was partly allowed, and the assessee was granted partial relief.

5. Before us, the Counsel for the assessee submitted that during the course of proceedings before Ld. CIT(A), the assessee had raised several legal contentions, which were omitted to be dealt with by Ld. CIT(A), at the time of passing of the order. More particularly, at Page 9, Para 10 the assessee had specifically submitted before Ld. CIT(A) that during the course of assessment proceedings, the assessee had submitted valuation report of Government approved registered valuer and had requested the Assessing Officer to allow the cost of acquisition of land on the basis of value given in that report. It was submitted before Ld. CIT(A) that once the assessee has furnished a valuation of purchase price as on 01.04.1981 by citing a report of Government approved valuer, it was incorrect on the part of the Assessing Officer to refer the matter to the Department Valuation Officer (DVO). It was submitted before Ld. CIT(A) that reference to DVO can only be done when the Assessing Officer was of the opinion that the value of assets claimed by the assessee is less than Fair Market Value (FMV). However, this legal argument was not dealt with by Ld. CIT(A) while passing the order, thereby causing a prejudice to the assessee. Accordingly, the Counsel for the assessee submitted that since Ld. CIT(A) did not take into consideration various legal arguments raised before him during the course of appellate proceedings the order passed by Ld. CIT(A) is not sustainable.

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6. On going through the contents of the order passed by Ld. CIT(A), in the interest of justice, the matter is hereby restored to the file of Ld. CIT(A) to take into consideration various legal arguments taken by the assessee and to pass appropriate orders, in accordance with law.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

**Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 01/08/2025**

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

Ahmedabad; Dated 01/08/2025

TANMAY, Sr. PS

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत / DR, ITAT, Surat
6. गार्ड फाईल / Guard file.

**Sd/-**  
**(SIDDHARTHA NAUTIYAL)**  
**JUDICIAL MEMBER**

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, सूरत/ ITAT, Surat