

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"I" BENCH, MUMBAI**

**SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.1436/MUM/2025  
(Assessment Year:2018-2019)**

**Satyanarayan Rangaiah Ganji**

1303, 13<sup>th</sup> Floor, Moroccan Apartments  
Royal Palm, Goregaon East, Mumbai - 400065  
Maharashtra.  
[PAN:AKVPG9842R]

..... **Appellant**

Vs

**Income Tax Officer, International Tax  
Ward 2(3)(1), Mumbai**

Mumbai - 400020, Maharashtra

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Ms. Varsha Nanwani  
For the Respondent/Department : Shri Krishna Kumar

**Date**

Conclusion of hearing : 30.06.2025  
Pronouncement of order : 31.07.2025

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. The present appeal has been preferred by the Assessee challenging Final Assessment Order, dated 02/01/2025, passed by the Assessing Officer under Section 147 read with Section 144C(13) of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'], as per the directions issued by Commissioner of Income Tax [Dispute Resolution Panel (2)], Mumbai-2 [for short '**DRP**'], on 06/12/2024 under Section 144C(5) of the Act for the Assessment Year 2018-2019.
2. The Assessee has raised following grounds of appeal :
  - "1. *The Learned Assessing officer (hereinafter referred to as "AO") /the learned Transfer Pricing Officer (hereinafter*

*referred to as "TPO")/the Hon'ble Dispute Resolution Panel (hereinafter referred to as "DRP") has erred in law, facts and circumstances of the case by confirming an addition of Rs. 19,21,290/- u/s 50C of the Income Tax Act, 1961 on the ground that the sales consideration is less than the stamp duty value of the property.*

2. *The Learned Assessing officer (hereinafter referred to as "AO") /the learned Transfer Pricing Officer (hereinafter referred to as "TPO") /the Hon'ble Dispute Resolution Panel (hereinafter referred to as "DRP") has erred in law, facts and circumstances of the case by confirming an addition of Rs. 19,21,290/- u/s 50C of the Income Tax Act, 1961 and rejecting the Assessee's request to keep the proceedings in abeyance as per para (v) to the explanation 1 of section 153 on the ground that it is not mandatory to keep the assessment proceedings in abeyance till the receipt of valuation report.*
3. *The Learned Assessing officer (hereinafter referred to as "AO") /the learned Transfer Pricing Officer (hereinafter referred to as "TPO") /the Hon'ble Dispute Resolution Panel (hereinafter referred to as "DRP") has erred in law, facts and circumstances of the case by confirming an addition of Rs. 19,21,290/- u/s 50C of the income Tax Act, 1961 and ignoring the fact that the valuation report from the Department Valuation Officer has been received by the Appellant.*
4. *The Learned Assessing officer (hereinafter referred to as "AO") /the learned Transfer Pricing Officer (hereinafter referred to as "TPO") /the Hon'ble Dispute Resolution Panel (hereinafter referred to as "DRP") has erred in law, facts and circumstances of the case by confirming an addition of Rs. 19,21,290/- u/s 50C of the Income Tax Act, 1961 and ignoring the fact that the Learned Department Valuation officer has ignored the fact that the property is located in the forest area of Aarey Milk Colony, which results in significant fluctuations in property rates and further ignoring that it is a buyer's market and there is a lot of variation in rate and seller has no option.*
5. *The Learned Assessing officer (hereinafter referred to as "AO") /the learned Transfer Pricing Officer (hereinafter referred to as "TPO") /the Hon'ble Dispute Resolution Panel (hereinafter referred to as "DRP") has erred in law, facts and circumstances of the case by confirming an addition of Rs.*

*19,21,290/- u/s 50C of the Income Tax Act, 1961 and the Learned Department Valuation officer has ignored the fact that the property was sold in December 2017 and the closest available rate for that year is the rate of September 2017, which stands at 62,227 per Sq. Mtr (BUA rate).*

6. *The learned AO/TPO/DRP erred in initiating the penalty proceedings u/s 270A of the Act."*

3. The relevant facts in brief are that the Assessee is non-resident individual. For the Assessment Year 2018-2019, the Assessee filed return of income declaring total income of INR.7,64,517/-. On the basis of information reported through Inside Portal to the effect that Assessee had sold property for a consideration of INR.18,50,000/- which had stamp duty value of INR.37,71,291/- during the relevant previous year, re-assessment proceedings were initiated in the case of the Assessee. During the re-assessment proceedings, the Assessee claimed that the market value of the property sold was less than the stamp duty value and therefore, reference was made by the Assessing Officer to District Valuation Officer (in short '**DVO**') as per the provisions of Section 50C(2) of the Act. Since, the report of the DVO was not received, the Assessing Officer proposed an addition of INR.19,21,291/- in the Draft Assessment Order, dated 02/01/2025, passed under Section 144C(1) of the Act. The Assessee filed objection before the DRP against the aforesaid proposed addition. Before the DRP, the Assessee contended that the stamp duty value for the immovable property sold was required to be adjusted downwards on account of following reasons (a) there was no water supply in the building (b) the infrastructure was bad and there was no accessible motorable roads (c) building was constructed in 2005 and was not maintained and (d) the market value of the property at the relevant time was much lower than the stamp duty value. It was contended on behalf of the Assessee that till the report of the DVO was received, the re-assessment proceedings be kept in abeyance. However, the DRP rejected the

objections raised by the Assessee and directed the Assessing Officer to pass the final Assessment Order. Consequently, the Assessing Officer passed the Final Assessment Order, dated 02/01/2025, under Section 147 read with Section 144C(13) of the Act making an addition of INR.19,21,291/- in the hands of the Assessee under Section 50C of the Act. While making the additions, the Assessing Officer referred to the directions issued by the DRP wherein it was recorded that no hardship has been caused to the Assessee since in the Draft Assessment Order itself the Assessing Officer has recorded that once DVO report is received the Assessment Order would be subjected to revision to give effect to the same. Being aggrieved, by the aforesaid Final Assessment Order, the Assessee has preferred the present appeal before the Tribunal on the grounds reproduced at Paragraph 2 above.

4. The Learned Authorized Representative for the Assessee before us submitted that the report of the DVO has since been received from the DVO and the market value of the property reported by the DVO is INR.27,39,203/-. It was further submitted that the Assessing Officer has not passed the rectification order till date and the application filed by the Assessee in this regard was pending adjudication. It was further submitted that the DVO has not taken into consideration any of the objections raised by the Assessee before the DVO while determining the market rate as on 13/12/2017. Relying upon the instances of sale quoted by the DVO in the valuation report, it was submitted that the report of the DVO itself showed that there was fluctuation in the sale price. In the present case the Assessee has made sale on 13/12/2017. Immediately prior sale was made on 02/09/2017 at the rate of INR.62,227/- per Sq. Meter of the built up area even as per the sale instances stated in the valuation report by the DVO. It was submitted by the Assessee even if the aforesaid rate is adopted, the

value of the market value of the property would be almost same as the value declared by the Assessee.

5. Per contra, the Learned Departmental Representative submitted that the Assessing Officer has not passed Rectification Order giving effect to the DVO's Report. Placing reliance upon the DVO Report the Learned Departmental Representative submitted that all the contentions raised by the Assessee were rejected by the DVO while arriving at the derived rate of INR.92,136 per Sq. Meter of the built up area for the purpose of valuation of the immovable property. It was further submitted that the submission of the Learned Authorized Representative for the Assessee that the closest sale instance reported by the DVO was on 02/09/2017 was factually incorrect. The immovable property under consideration was sold on 13/12/2017 and therefore, the closest sale instance reported by the DVO was on 02/02/2018 (at the rate of INR.98,221 per Sq. Ft. of built up area).
6. We have given thoughtful consideration to the rival submissions and have perused the material on record including the report of the DVO. We note that the report of the DVO was neither before the Assessing Officer nor before the DRP and therefore, addition of INR.19,21,291/-, being difference between the stamp value of INR.37,71,291/- and the actual consideration of INR.18,50,000/-, was made by the Assessing Officer in the Final Assessment Order dated 02/01/2025 since the DRP had declined to grant any relief to the Assessee in absence of the valuation report. On perusal of the Final Assessment Order we find that the Assessing Officer was of the view that the Final Assessment Order was subject to revision under Section 155(15) of the Act on receipt of Valuation Report. However, on perusal of Valuation Report we find that the DVO has recorded under the heading 'Description', the 'Specification' of the property as under:

| 3.   | Description       |  |
|------|-------------------|--|
| 3.1. | Ownership History | : xx xx  |
| 3.2. | Built Up area     | : BUA of the subject property as mentioned in the agreement is 29.73 Sq. mt.   |
| 3.3  | Specification     | : The subject property is a small office unit in a premise called Master Mind. The building is situated in the forests of Aarey Milk Colony. The locality is not developed and its connectivity with the main road is badly marred. The construction of the building was though constructed in 2006 but the external condition of the building is deteriorated. The premise is not well maintained inside. The internal specifications are very ordinary. Though the premise is a commercial one but due to its remote connectivity from the main city and due to its location inside the forests of Aarey Colony, no crowd was seen. A very few habitants were observed in the residential buildings in the vicinity of subject property. The locality seems to be undeveloped and proper civic amenities are still not available in nereby area. |

Thus, the DVO has accepted the contention of the Assessee that the property sold by the Assessee was not well maintained; its internal specifications were very ordinary; though the premises were commercial but due to remote connectivity from the main city and due to its location being inside the forest of Aarey Colony no crowd was seen; the locality in which the immovable property was situated was undeveloped; and proper civic communities were not available in the nearby area. After taking note of the specification/condition of the immovable property as aforesaid, the DVO proceeded to determine the rate for valuation of the immovable property and the final valuation recording as under:

| 5.   | Rates          |  |
|------|----------------|--|
| 5.1. | Sale Instances | : A few sale instances in and around the locality of the subject property are collected and enclosed herewith as Annexure 'II' for valuation.  |
| 5.2  | Rates          | : After considering various pros and cons of the property with various factors affecting valuation of the property such as physical, social, legal and economical, a derived rate of <b>INR.92,136/- per Sqm.</b> As on 13/12/2017 has been adopted. |

| 9.   | Final Valuation |   |
|------|-----------------|---|
| 9.1. | Final Valuation | : Having perused all the details submitted by the Assessee and local inquiry done at the time of inspection and also all the relevant materials gathered by me and after giving due weight age and discount for the factors affecting the rate of value such as time lag, shape and size, location, situation, approach and access along with other factors like physical, legal, sound and economical, I hereby estimate No.627, B-Building, Master Mind-4, Royal Palms, Village Maroshi, Aarey Milk Colony, Goregaon (E), Mumbai", as on 13/12/2017 of Rs.27,39,203/- (Rs. Twenty-Seven Lakh Thirty-Nine Thousand Two Hundred and Three only) |

7. We note that the DVO has not provided any basis of arriving at the

derived rate of INR.92,136/- per Sq. Meter of the built up area. The report is silent upon the base rate adopted by the DVO and the upwards/downwards adjustments made therein. Annexure 1 of the valuation report reads as under:

| Valuation  |                                   | Annexure –I           |
|--|-----------------------------------|-----------------------|
| Property: "Office premise No.627, B-Building, Master Mind-4, Royal Palms, Village Maroshi, Aarey Milk Colony, Goregaon (E), Mumbai". |                                   |                       |
| Fair Market Value (as on 13/12/2017)   |                                   |                       |
| 1.   | Built Up Area of the office unit  | =29.73 Sqm.           |
| 2.   | <b>BUA rate as on 09/05/2017</b>  | =INR.92,136/- per Sqm |
| 3.   | Fair Market Value of the property | =INR.27,39,203/-      |
| (Rs. Twenty Seven Lakh Thirty-Nine Thousand Two Hundred and Three only)  |                                   |                       |

On perusal of above, it can be seen that the 'BUA rate as on '09/05/2017' has been adopted to determine Fair Market Value as on 13/12/2017. However, on perusal of Annexure II listing sale instances we find that there are no sale instance of 09/05/2017.

8. Further we note that in Annexure-II to the Valuation Report reads as under:

| <u>SALE INSTANCES (For FMV as on 01/02/2018)</u>   |  | Annexure –II |
|--|--|--------------|
| Property: "Office premise No.627, B-Building, Master Mind-4, Royal Palms, Village Maroshi, Aarey Milk Colony, Goregaon (E), Mumbai"  |  |              |
| xx xx  |  |              |
| After considering various pros and cons of the property with various factors affecting valuation of the property a derived rate of INR.92,136/- per Sqm. Has been adopted. |  |              |

9. On perusal of Annexure II listing sale instances it is clear that the tile of Annexure II reads as follows "*Sale Instances (For FMV as on 01/02/2018)*" while the concluding part of the aforesaid Annexure to state that "*After considering various pros and cons of the property with various factors affecting valuation of the property a derived rate of INR.92,136/- per Sqm. Has been adopted*". Thus, on reading of the Valuation Report as a whole it is not clear whether the valuation has been determined as on 13/12/2017 (i.e. the date of sale of

immovable property), 09/05/2017 (i.e. the date stated in Annexure -I) or 01/02/2018 (i.e. the date stated in Annexure-II). Further, it is not clear what quantitative adjustments have been done for determining the Fair Market Value taking into consideration the admitted specification of the immovable property sold by the Assessee. At the same time, we note that the DVO has reported four sale instances. The sale instance immediately prior to 13/12/2017, pertains to Agreement/Conveyance, dated 02/09/2017, whereby immovable property having built up area of INR.26.62 Sq. meters was sold at the rate of INR.62.227/- per Sq. meter of built up area. Keeping in view overall facts and circumstances of the case discussed hereinabove and with the object of putting quietus to the issue under consideration we direct the Assessing Officer to adopt the aforesaid rate for determining the Fair Market Value as on 13/12/2017 and passed Rectification Order in terms of Section 155(15) in view of the observations made in Paragraph 6 of the Final Assessment Order, dated 02/01/2025. In terms of the aforesaid, Ground No.1 to 5 raised by the Assessee are allowed for statistical purposes. Further Ground No.6 dealing with the initiation of penalty proceeding under Section 270A of the Act is dismissed as being premature.

10. In result, in terms of paragraph 9 above, the present appeal preferred by the Assessee is allowed for statistical purposes.

Order pronounced on 31.07.2025.

*Sd/-*  
**(Vikram Singh Yadav)**  
**Accountant Member**

*Sd/-*  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 31.07.2025  
Milan,LDC

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि ,आयकर अपीलीय अधिकरण ,मुंबई / DR,  
ITAT, Mumbai
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आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai