

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

**Before: Shri T.R. Senthil Kumar, Judicial Member And
Shri Bijayananda Pruseth, Accountant Member**

**ITA No: 1247/SRT/2024
Assessment Year: 2015-16**

Pritiben Hiteshbhai Patel 23 Patel Faliyu, Varaccha Road Nana Varachha, Surat-395006 PAN: BTVPP0391Q (Appellant)	Vs	The ITO Ward-3(1)(5), Surat (Respondent)
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**Assessee Represented: Shri P.M. Jagasheth, CA
Revenue Represented: Ms. Neerja Sharma, Sr.D.R.**

Date of hearing : 07-05-2025
Date of pronouncement : 28-07-2025

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the appellate order dated 30.09.2024 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the assessment order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2015-16.

2. Brief facts of the case is that the assessee is an individual filed her Return of Income for the Asst. Year 2015-16 on 24-10-2028 declaring total income of Rs. 2,66,170/-. The assessee purchased of two immovable properties, one in Block No. 128 measuring 9915 Sq. Meter along with seven other co-owners for a purchase consideration of Rs.1,99,00,000/- whereas assessee's share is 12.5%. Another property namely Block No. 127 measuring 48967 Sq. Meter along with six other co-owners for a purchase consideration of Rs.39,00,000/- whereas assessee's share is 15.38%.

3. During the assessment proceedings, the Assessing officer referred the matter to DVO to value the properties, thereby DVO valued the above properties at Rs. 510 per Sq. Meter. Thus the Assessing Officer made addition of Rs. 8,12,071/- u/s. 56(2)(vii)(b) of the Act. The details are as follows:

Sr. No.	Land Address	Area Sq. Mt.	Dastavej Amount (A)	DVO Value Rs.510/-per Sq. Mt. (B)	Difference (A-B)	Share of the assessee (%)	Assessee 's Share
01,	Block No. 128	48,967	1,99,00,000	2,49,73,000	50,73,000	12.50%	6,34,124
02.	Block No. 127	9,915	39,00,000	50,57,000	11,57,000	15.38%	1,77,947
Total							8, 12,071

4. Aggrieved against the assessment order, assessee filed an appeal before Ld. CIT(A) who has confirmed the addition based on the valuation made by the DVO.

5. Aggrieved against the appellate order, assessee is in appeal before us raising 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 of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in making addition of Rs 34,48,375/ on account of investment in immovable property addressed at Block No. 127 and Block No. 128, Village Chalthan, Tal Palsana, Dist. Surat treated as alleged unexplained Investment
 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 making addition of Rs. 8,12,072) on account of difference between purchase deed value and valuation of DVO as per provisions stated u/s 56(2)(vii)(b) of the 1.T. Act is clearly applicable in this case
 3. 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 not offered adequate opportunities to hear, hence, the case may please be set aside and restored back to the CITIA) or AO for sake of the interest of natural justice
 4. It is therefore prayed that the above addition may please be deleted as learned members of the tribunal may deem it proper.
 5. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of the hearing of the appeal.
6. Ld. Counsel Shri P.M. Jagasheth appearing for the assessee submitted before us that one of the co-owner of the very same properties namely Pushpaben Manubhai Patel Co-ordinate Bench SMC Bench of this Tribunal in ITA No. 354/SRT/2024 vide order dated 13-06-2024 considered the drawbacks in the above properties and valued the property at 450 per Sq. Meter. Thus the

same may be adopted in the present assessee's case whereby the addition is restricted to Rs. 3,53,300/- as follows:

Sr. No.	Land Address	Area Sq. Mt.	Dastavej Amount (A)	Rate as per Hon'ble ITAT Order Rs. 450 per Sq. Mt. (B)	Difference (A-B)	Share of the assessee (%)	Assessee's share
01.	Block No. 128	48,967	1,99,00,000	2,20,35,150	21,35,150	12.50%	2,66,900
02.	Block No. 127	9,915	39,00,000	44,61,750	5,61,750	15.38%	86,400
Total							3,53,300/-

7. Ld. Sr. D.R. appearing for the Revenue could not dispute the fact. We have carefully considered the submission and perused the materials available on record. The Co-ordinate Bench of Surat decision in the case of Nitinkumar Manubhai Patel L/R of Pushpaben M. Patel Vs. ITO in ITA No. 354/SRT/2024 vide order dated 13-06-2024 held as follows:

"6. I have considered the submissions of both the parties and perused the record carefully. I have also deliberated on various case laws relied by the ld. AR of the assessee. I find that there is no dispute about the value shown by the assessee alongwith other co-owners in respect of acquisition of such property. Further no dispute on the value determined by the Stamp Valuation Authority. I find that during the assessment, the Assessing Officer made a reference to DVO for estimation of fair market value of both pieces of lands. The DVO suggested fair market value of land in both the Block of lands @ of Rs. 510/- per square meter. On the basis of report of DVO, the Assessing Officer made addition of Rs. 6,34,125/- qua the share of assessee in respect of land of Block No. 128 and addition of Rs. 1,17,947/- qua Block No. 127 thereby adding Rs. 8,12,020/- under section 56(2)(vii)(b). The ld. CIT(A) confirmed the action of Assessing Officer by simply holding that the Assessing Officer was bound to adopt the value of properties as per the DVO report. I find that the ld. CIT(A) has not given any

independent finding. I find that the DVO has recorded a very vital fact, affecting the potential value of lands in question. The DVO in para 7.3 of his report has recorded that "a high tension line of very high voltage is passing through the land and towers of electricity pole are exist. The majority of part of land is become useless. Further, it is noted that there is no direct approach from national highway. No approach is available in rainy season". Despite recording such observation, the DVO suggested uniform rate with respect to both plot of lands. I have independently considered the various comparable instances narrated by the DVO. As per Annexure-A of his report wherein he has narrated the comparable instances. The DVO has narrated comparable instances of land bearing Block Nos. 75, 137, 123 and Block No. 40, however, the name of village-Chalthan, Taluka-Palsana, District-Surat are missing, even if those block numbers are presumed to be of sale instances of same village and taluka, none of the comparable are adjoining to the land in question. Thus, considering the vital factors that high voltage of electricity line and towers are exist in the impugned lands and the major part of land became useless which adversely affected the future potential value of land and planning. In my view, the rate suggested by the DVO @ Rs.510/- is on little higher side. Therefore, keeping in view the fact that the assessee and his coowners have shown the consideration at about Rs. 400/- per square meter (Rs. 406 per square meter for land in Block No. 128 and Rs. 393/- per square meter for land in Block No. 127) and the DVO has suggested the rate for both the lands at Rs. 510/- per square meter. Thus, keeping in view all facts and circumstances of the present case and keeping in view, the special fact mentioned by DVO in his report that a high tension line of very high voltage is passing through the land and towers of electricity pole are exist and majority of part of land is become useless, hence, I direct the Assessing Officer to adopt uniform rate @ of Rs. 450/- per square meter for both pieces of lands. With the aforesaid observation, the ground No.1 of appeal raised by the assessee is partly allowed.

8. Since the assessee is one of the co-owner of the other two properties, we have no hesitation in adopting uniform rate of Rs. 450 per Sq. Meter for both the properties as determined by the Coordinate SMC Bench decision rendered by this Tribunal. With the

above observations, the Grounds of Appeal filed by the assessee are hereby partly allowed.

9. In the result, the appeal filed by the Assessee is partly allowed for statistical purpose.

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 28-07-2025

Sd/-
(BIJAYANANDA PRUETH)
ACCOUNTANT MEMBER

Ahmedabad : Dated 28/07/2025

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

By order/आदेश से,

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उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
सूरत