



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।
IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.517/RJT/2025

निर्धारण वर्ष/Assessment Year :2012-13

Harpalsinh Pruthvisinh Gohil Harpal Nivas, 1/7, A- Ramkrushna Nagar, Rajkot - 360001	बनाम/ Vs	Income Tax Officer Ward 1(2)(5), Room No. 517 Rajkot 360001
स्थायी लेखासं./जीआइआरसं./PAN/GIR No.: AQIPG5406C		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by : Shri Dharesh Modi, Ld. AR
राजस्व की ओर से/Revenue by : Shri Dheeraj Kumr Gupta, Ld. Sr-DR

सुनवाई की तारीख/**Date of Hearing** : **09/09/2025**

घोषणा की तारीख/**Date of Pronouncement** : **22/09/2025**

आदेश/Order

Per Dr. Arjun Lal Saini, A.M

The present appeal has been filed by the Assessee, against the order passed by the Learned Commissioner of Income Tax (Appeal), ADDL/JCIT(A)-5, Kolkata [hereinafter referred to as "CIT(A)"], dated 09.12.2024 arising in the matter of assessment order passed u/s. 143(3) r.w.s. 147 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2012-13.

2. Grounds of appeal raised by the assessee are as follows:



- “1. 1. That on the facts and in the circumstances of the case and in law, the learned Commissioner of Income-tax (Appeals) erred in confirming the action of the Assessing Officer in making/sustaining the additions without properly appreciating the facts, evidences, and submissions placed on record, thereby rendering the order bad in law and liable to be quashed.*
- 2. That the learned CIT(A) erred both on facts and in law in upholding the addition of 2897500/- under the head "capital gain" without establishing any cogent material OR evidence to justify such addition and by merely relying upon conjectures, surmises, and presumptions.*
- 3. That the learned CIT(A) erred in law in upholding the rejection of explanations and documentary evidences and additional evidences submitted by the appellant, without assigning any cogent reasons and without pointing out any infirmity therein in violation of the principles of natural justice, inasmuch as adequate and meaningful opportunity of being heard.*
- 4. That the learned CIT(A) grossly erred in confirming the addition of 2897500/- under section 50C(1) of the Income-tax Act, 1961, ignoring the settled judicial principles laid down by the Hon'ble Supreme Court/High Courts/ITAT in identical circumstances.*
- 5. That the learned CIT(A) erred in law and on facts in placing reliance on third-party information/material, without taking cognizance of additional evidences and without allowing proper opportunity to rebut the same, thereby violating the mandate of section 250(6) of the Act.*
- 6. That the learned CIT(A) erred in ignoring the binding judicial precedents cited before him, thereby rendering the appellate order perverse and unsustainable in law.*
- 7. That the impugned appellate order is contrary to law, equity, and justice, is passed in a mechanical manner without independent application of mind, and is therefore liable to be set aside.*
- 8. That the appellant craves leave to add, amend, vary, OR withdraw any of the above grounds at OR before the hearing of the appeal.”*

3. Appeal filed by the assessee for A.Y. 2012-13 is barred by limitation by 176 days. The assessee has moved a petition for condonation of delay requesting the Bench to condone the delay. The Ld. Counsel for the assessee, has explained the delay stating that the order under section 250 of the Income-tax Act, 1961 by the learned CIT(A) was passed on 09/12/2024, but the same was not received by the Appellant on the email address provided



in Form 35 or any other email address registered on E-portal of Income Tax, nor was any physical copy delivered. That the Appellant came to know about the said order only when Jurisdictional Assessing Officer communicated outstanding demand on 23.07.2025 u/s 250 of Income Tax Act in response to which tax consultant discovered the order passed by learned Commissioner of Income Tax Appeal on Income Tax Eportal website. Copy of email is attached for reference. That upon becoming aware of the said order, the Appellant immediately took steps to obtain a copy downloaded from Income Tax E-portal website to file the appeal before this Hon'ble Tribunal, and therefore delay has occurred in filing the appeal. The delay in filing the appeal is neither intentional nor deliberate but solely due to non-receipt of the order and lack of any communication from the Department at the time of passing of the said order. Based on these facts, Ld. Counsel contended that delay in filing the appeal may be condoned.

4. On the basis of the facts narrated in the contents of the petition for condonation of delay, the Ld. Counsel for the assessee submitted that the assessee has explained the sufficient cause for delay, therefore, the delay should be condoned.

5. On the other hand, Ld. DR for the Revenue submitted that the delay should not be condoned on such flimsy grounds, therefore, appeal of the assessee should be dismissed.

6. I have heard both the parties on this preliminary issue and perused the materials available on record. I note that notices were not delivered on the assessee and the order of the Ld. CIT(A) was also not received by the assessee, on time. When the assessee received the demand notice from the Income Tax Department, then the assessee came to know about passing the



order of the Ld. CIT(A). A perusal of the affidavit gives me an impression of existing of mitigation circumstances to enable me to exercise my discretion in favour of assessee. Therefore, based on these facts and circumstances, I note that the assessee has explained the sufficient cause to condone the delay, therefore, I condone the delay and admit the appeal of the assessee for hearing.

7. The Ld. Counsel for the assessee at the outset argued that in the assessee's case the assessment order was framed on 04.12.2019. However, the assessee has filed the valuation report of the registered valuer after the assessment order is framed by the assessing officer. The valuation date of the Valuer's Report is dated 30.11.2020. The Ld. Counsel for the assessee stated that the assessee has obtained the valuation report from the Registered Valuer very late and it was not available before the assessing officer, therefore, the matter may be restored back to the file of the assessing officer to adjudicate the issue afresh.

8. On the other hand, the Ld. DR for the Revenue submitted that the assessee has placed reliance on the valuation report dated 30.11.2020. The Bench cannot adjudicate the issue based on the valuation report of the Registered Valuer of the assessee dated 30.11.2020 as the said valuation report was not available with the assessing officer. Therefore, opportunity should be given to the assessing officer to examine the valuation report of the Registered Valuer of the assessee. The Ld. DR also submitted that the assessing officer may also refer the matter to the Departmental Valuation Officer also before adjudicating the assessee's issue. Therefore, Ld. DR contended that the matter may be restored back to the file of the assessing officer for afresh adjudication.



9. I have heard both the parties and perused the materials available on record. I note that the valuation report of the Registered Valuer submitted before the Bench is dated 30.11.2020. However, the assessing officer framed the assessment order on 04.12.2019, therefore, I note that this valuation report of the Registered Valuer was not available before the assessing officer to adjudicate the assessee's issue. The Ld. Counsel for the assessee submitted before the Bench that the entire issue should be adjudicated based on the assessee's valuation report obtained by the assessee from the Registered Valuer. Since, the valuation report of the Registered Valuer dated 30.11.2020 was not available before the assessing officer, therefore, I am of the view that an opportunity should be given to the assessing officer to examine the valuation report of the Registered Valuer and adjudicate the issue in accordance with law. The assessee may also submit other relevant documents and evidences to prove his claim before the assessing officer.

10. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 22/09/2025.

Sd/-

(Dr. A.L. SAINI)

लेखा सदस्य/ACCOUNTANT MEMBER

राजकोट /Rajkot

(True copy)

दिनांक/ Date: 22/09/2025

By order/आदेश से,

सहायक पंजीकार
आयकर अपीलीय अधिकरण, राजकोट