

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER &  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**आयकर अपील सं./ITA No.80/SRT/2025**

**Assessment Year: (2017-18)**

**(Hybrid hearing)**

Sumanben Jashvantbhahi Patel, 114, Soni-Ni-Tekri, Adajan Gam, Adajan, Surat – 395009,	<b>बनाम/ Vs.</b>	ACIT, Circle – 1(3), Surat
<b>स्थायी लेखासं./जीआइआरसं./PAN/GIR No: ABBPP 2105 K</b>		
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>

निर्धारिती की ओर से /Appellant by	Shri Rasesh Shah, CA
राजस्व की ओर से/Respondent by	Shri Ajay Uke, Sr-DR
सुनवाई की तारीख /Date of Hearing	04/08/2025
उद्घोषणा की तारीख /Date of Pronouncement	03/11/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 20.07.2024 by the National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals)[in short, "the CIT(A)"] for the assessment year (AY) 2017-18, which in turn arises out of assessment order passed by the Assessing Officer (in short, 'AO') u/s. 143(3) of the Act on 30.11.2019.

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

*"1. On the facts and circumstances of the case as well as law on the subject, the Ld. CIT(A) has erred in partly allowing the deduction on account of cost of acquisition at Rs.33 per sq. mtr. only as against the claim of cost of acquisition at*

*Rs.1000/- per sq. mtr. and thereby partially confirming the action of AO in making addition of Rs.48,50,621/- while passing the assessment order.*

*2. It is, therefore, prayed that the addition made by AO and confirmed by the Ld. CIT(A) may please be deleted.*

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

3. Brief facts of the case are that the assessee had filed return of income for the year under consideration on 27.03.2018 with the returned income of Rs.68,97,950/-. The case was selected for limited scrutiny by issuance of notice u/s 143(2) of the Act. During the year under consideration, the assessee had sold two immovable properties which were jointly owned by her along with 5 other co-owners and had received her share of full value consideration of Rs.1,14,83,333/- (being 1/6<sup>th</sup> of total full value consideration of Rs.6,89,00,000/-). She declared long-term capital gains on such sale of properties at Rs.64,58,544/-. The assessee had taken the fair market value (FMV) as on 01.04.1981 at Rs.1,000/- per sq. meter as per valuation report of a Government approved valuer. During the assessment proceedings, the AO observed that the cost of acquisition claimed by the assessee as on 01.04.1981 of Rs.1,000/- per sq. meter was extremely high by any standards of land prices prevailing at Surat during 1981. Besides, assessee did not furnish details of the distances from sold plots in respect of distances of the plots adopted by the Registered Valuer in its valuation report. AO also observed that the land prices in early 1980 was in 10 of rupees, as

compared to thousand rupees claimed by the assessee. Also, no valuation from any departmental sources have been tendered.

4. Therefore, a show cause notice was issued by the AO wherein assessee was asked to show cause as to why the rate of Rs.5/- per sq. meter should not be taken on the basis of comparable sale instances. In the reply, the assessee stated that the FMV as on 01.04.1981 was taken by the assessee on the basis of valuation report obtained from a Government Approved Valuer who had valued the FMV at Rs.1,000/- per sq. meter. The explanation offered by the assessee were not found acceptable by the AO. Therefore, AO referred the matter to the Departmental Valuation Officer (DVO) u/s 55A of the Act. But, since the report of the DVO was not received, the AO completed the assessment proceedings by computing the resultant LTCG by adopting the rate of Rs.5/- per sq. mt. based on the methodology of adopting the average of 7 comparable sale instances of the contemporaneous period and worked out the indexed cost of acquisition at Rs.24,375/- as against Rs.48,74,996/- claimed by the assessee and made the addition of Rs.48,50,621/- (Rs.48,74,996 – Rs.24,375). Accordingly, AO passed the assessment order u/s.143(3) of the Act on 30.11.2019 wherein total income of the assessee was determined at Rs.1,17,48,570/-.

5. Aggrieved by the aforesaid assessment order dated 30.11.2019, assessee preferred appeal before CIT(A). During appellate proceedings, the assessee

submitted that the DVO report has been received and she attached the copy of the same along with her submissions. As per this report, the DVO had estimated the value of the subject properties at Rs.1,61,250/- by adopting the rate of Rs.33/- per sq. mt. The CIT(A) after considering the material available on records and submissions made by the assessee observed that the rate of Rs.33/- sq. mt. as arrived at by the DVO in his report dated 27.12.2019 was best fit and most reasonable rate and accordingly, directed the AO to compute the corresponding LTCG by computing the indexed cost of the respective immovable properties by adopting the rate of Rs.33/- per sq. mt. while giving effect to its appellate order. The CIT(A) passed the order u/s.250 of the Act on 20.07.2024.

6. Aggrieved by the order of CIT(A), assessee filed present appeal before the Tribunal. The Ld. AR of the assessee submitted that the rates adopted and consequential values determined by the AO as well as DVO are unreasonable and unjustifiable and that the rate adopted and value determined by the Govt. Approved Value is on a very conservative basis after considering all the relevant factors affecting the valuation of land. The Ld. AR further submitted that the Government approved Valuer had given the valuation of the impugned land at Rs.1,000/- per sq. meter after elaborately discussing various factors like location, basis amenities, proximity of the land from Surat city, future growth potentiality, etc. with proper justification to determine the value at Rs.1,000/- per sq. meter

whereas the AO adopted the value of Rs.5/- per sq. meter arbitrarily as a general conclusion without discussing the various factors affecting the valuation of the land and without giving any justification as to how this rate was at par with the rates of land in surrounding areas. The Ld. AR, therefore, requested to delete the addition made by the AO and confirmed by the CIT(A).

7. The Ld. Sr. DR for the revenue, on the other hand, relied upon the order of the lower authorities and requested to uphold the order of CIT(A), in the interest of justice.

8. We have heard both sides and examined the record and evidences placed before us. The short issue involved in this appeal is the determination of the fair market value (FMV) of the property as on 01.04.1981 for the purpose of computing long-term capital gains u/s 48 of the Act. The assessee has claimed FMV at Rs.1,000 per sq. meter based on registered valuer's report. However, the AO, finding the same highly inflated, referred the matter to the DVO. The DVO, after following due process and analyzing comparable sale instances of similar lands in the vicinity, determined the FMV at Rs.33 per sq. meter. The CIT(A) accepted this figure.

8.1 In our considered view, the report of the DVO, being prepared by a technically qualified officer in accordance with the procedure laid down under section 55A of the Act, carries a presumption of correctness, unless contrary

evidence is shown to rebut it. The registered valuer's report, though from an approved valuer, cannot automatically be accepted when it shows an extraordinary variance without cogent supporting sale data or contemporaneous evidence. We concur with the view of the CIT(A) that the best methodology to estimate the FMV of any immovable property is to look for comparable sale instances and then make the adjustments to the average value derived from such instances as per the variations of parameters/factors of property under consideration vis-à-vis the sale instances considered. In the present case, the Registered Valuer, on his own, had identified 6 actual sale instances of the contemporaneous period but totally ignored the same in the valuation report. Besides, the assessee has also not brought on record any specific sale instances or documentary proof of comparable properties sold around 1981 to substantiate the claimed rate of Rs.1,000 per sq. meter.

8.2 Under section 55(2)(b)(i), where a capital asset became the property of the assessee before 01.04.1981, the assessee may adopt the FMV as on that date as its cost of acquisition. However, such value must be supported by cogent evidence and cannot be arbitrary. Section 55A empowers the AO to refer valuation of a capital asset to a Departmental Valuation Officer (DVO) if he is of the opinion that the value claimed by the assessee is at variance with its fair market value.

8.3 In the present case, the assessee's registered valuer adopted Rs.1,000/- per sq. mtr. as on 01.04.1981 without substantiating it by any comparable sale instances or public record. The report merely makes broad observations regarding potentiality and development prospects. Such general statements, in absence of documentary support, cannot establish historical FMV as on 01.04.1981. In contrast, the DVO, being a statutory and technical authority, has adopted Rs.33/- per sq. mtr. after examining seven contemporaneous sale instances from the same area, duly adjusted for location and other relevant factors. The methodology adopted by the DVO is transparent, evidence-based and supported by verifiable data. The CIT(A), therefore, rightly accepted the DVO's determination as the most reasonable and fair estimate. The DVO's adoption of Rs.33/- per sq. mtr. appears just and fair, considering the state of infrastructure and land prices in Surat in early 1980s, which were still developing. The burden lies on the assessee to substantiate the FMV claimed by her. The assessee has failed to discharge this onus. Merely filing a registered valuer's report without supporting material cannot displace the statutory valuation made by the DVO, which enjoys evidentiary value under law.

9. In view of the foregoing discussion, we find no infirmity in the order of the CIT(A) directing the AO to adopt Rs.33/- per sq. mtr. as the fair market value as on 01.04.1981. The DVO's report is based on objective analysis of comparable

sales and carries greater credibility than the unsubstantiated valuation submitted by the assessee. Accordingly, the order of the CIT(A) is hereby upheld and the grounds raised by the assessee are dismissed.

10. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in accordance with Rule 34 of ITAT Rules, 1963  
on 03/11/2025 in the open court.

**Sd/-**  
**(DINESH MOHAN SINHA)**  
**न्यायिक सदस्य/JUDICIAL MEMBER**  
सूरत /Surat  
दिनांक/ Date: 03/11/2025  
Dkp Outsourcing Sr.P.S\*

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

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

- **अपीलार्थी/ The Appellant**
- **प्रत्यर्थी/ The Respondent**
- **आयकर आयुक्त/ CIT**
- **आयकर आयुक्त (अपील)/ The CIT(A)**
- **विभागीय प्रतिलिपि, आयकर अपीलीय आधिकरण, सूरत/ DR, ITAT, SURAT**
- **गार्ड फाईल/ Guard File**

By order/आदेश से,

// True Copy //

**सहायक पंजीकार**  
**आयकर अपीलीय आधिकरण, सूरत**