

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, AHMEDABAD**

**BEFORE: SHRI SANJAY GARG, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 1645/Ahd/2025

(निर्धारण वर्ष / Assessment Year : 2013-14)

<b>Sandeepkumar Kishorbhai Barot</b> 15, Parimal Society, Sukhapara, Mehsana, Gujarat - 384002	<b>बनाम</b> / Vs.	<b>ITO</b> Ward-1, Mehsana (Previously ITO, Ward-3, Mehsana)
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AGUPB1699N		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

अपीलार्थी ओर से /Appellant by :	Shri Vipul Khandhar, A.R.
प्रत्यर्थी की ओर से/Respondent by :	Shri Ravindra, Sr. DR

<b>Date of Hearing</b>	15/12/2025
<b>Date of Pronouncement</b>	18/12/2025

**(आदेश)/ORDER**

The present appeal has been preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), Addl/JCIT (A)-1, Nashik (hereinafter referred to as “CIT(A)”), dated 25.06.2025 passed under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as the “Act”) and relates to Assessment Year (A.Y.) 2013-14.

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

- “1. The CIT (A) erred in passing the order u/s 250 by way of rejecting the appeal of the appellant.*
- 2. The CIT(A) erred both in law and on facts in confirming the addition of Rs.2491080/-being Capital Gain u/s 50of IT Act, 1961.”*
3. Brief facts of the case are that the AO got the information that the assessee had sold immovable property (plot) for Rs.14,50,000/-. However, the assessee did not show any capital gains in his return of income. The assessment was, therefore, reopened u/s.147 r.w.s. 148 of the Act. During the assessment proceedings, the AO further noted that the assessee had executed/registered the sale deed at a lesser price than the circle rate/Collector rate of the area determined by the Stamp Valuation Authority. He, therefore, invoked the provisions of Section 50C of the Act and applied the circle rate/stamp duty value and determined the capital gains of the assessee at Rs.24,91,080/- and made the impugned addition for the said amount. The Ld. CIT(A) confirmed the addition so made by the AO.
4. Before this Tribunal, Ld. AR appearing for the assessee has submitted that the assessee had duly made a written request to the AO that the market value of the property was less than the value determined by the Stamp Valuation Authority, the reference of which, is given in the assessment order itself. However, the AO simply applied the provisions of Section 50C of the Act and assessed the capital gains as per circle rate determined by the

Stamp Valuation Authority observing that the assessee had paid the stamp duty at that rate and, therefore, he was liable to pay income tax/capital gains taking the same rate. Ld. Counsel has referred to the provisions of Section 50C of the Act has submitted that the statute has given a right to the assessee to dispute the value adopted by Stamp Valuation Authority and make request to the AO to refer the matter to the Departmental Valuation Officer to determine the market value of the property at the time of execution of the sale deed. However, the AO has denied the said statutory right to the assessee. Further, the Ld. AR has submitted that the assessee had also shown a profit of Rs.30,000/- from the aforesaid sale of property in his return of income. However, the same was shown under a wrong head mistakenly under "income from other sources". He in this respect has submitted that the assessee may be given the set off of the same while determining the income/capital gains of the assessee from the sale of the property. He has further submitted that the matter may be restored to the file of the AO to decide the issue afresh in accordance with law.

5. The Ld. DR has also been fair enough to admit that in this case, the AO has not referred the matter to the DVO as required by law despite request of the assessee.

6. Considering the above submissions, impugned order of the Ld. CIT(A) is set aside and matter is restored to the file of the AO

for decision afresh on this issue. The AO is directed to refer the matter to the DVO to obtain the prevalent market rates during the period of the execution of the sale deed and will also consider the taxes, if any, paid by the assessee under the wrong head in respect to the aforesaid transaction of sale of immovable property and will give set off of the same to the assessee. With the above observations, the appeal of the assessee is treated as allowed for statistical purposes.

7. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

**This Order pronounced on 18/12/2025**

Sd/-  
(SANJAY GARG)  
**JUDICIAL MEMBER**

Ahmedabad; Dated 18/12/2025

S. K. SINHA

True Copy

**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, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad