

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

**BEFORE MS. SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER
AND
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No. 1238/AHD/2025
Assessment Year:2012-13**

Laljibhai Parshottambhai Gaudani, 16, Zanzar Bangalows Shraddha Petrol Pump Lane Judges Bunglows Bodakdev, Ahmedabad – 380054 [PAN – AHEPG8338E] (Appellant)	Vs.	Deputy Commissioner of Income Tax, Circle 3(1)(1), Ahmedabad - 380015 (Respondent)
Assessee by	Shri Kalpesh Shah & Shri Anuj Kalpesh Shah, ARs	
Revenue by	Shri Rameshwar P Meena, Sr. DR	
Date of Hearing	22.12.2025	
Date of Pronouncement	13.01.2026	

ORDER

PER NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER:

This appeal is filed by the assessee against the order of National Faceless Appeal Centre(NFAC), Delhi [hereinafter referred to as 'CIT(A)'], dated 20.09.2024 for the Assessment Year (A.Y) 2012-13 in the proceedings u/s 143(3) r.w.s. 147 of the Income Tax Act.

2. There was a delay of 180 days in filing of this appeal. The assessee has filed a condonation application along with affidavit explaining the reason for delay. It is explained that the assessee is a senior citizen, suffering from liver dysfunction which required recurring

hospital visits. Further, his wife was also bed-ridden and handicapped. Due to the adverse medical conditions, the assessee could not attend to the proceedings before the Assessing Officer and the CIT(A) and there was also delay in filing the present appeal. The Ld. AR submitted that the delay was neither intentional nor due to negligence but purely due to the medical condition of the assessee. Considering the explanation of the assessee, the delay in filing the appeal is condoned.

3. The brief facts of the case are that the assessee had filed his return of income for the A.Y. 2012-13 on 22.03.2013 declaring income of Rs.22,44,370/-. The Assessing Officer had subsequently received an information that assessee had sold a land on 08.07.2011 for consideration of Rs.14,59,860/-, the Jantri value of which was Rs.59,90,320/-. According to the Assessing Officer the difference of Rs. 45,30,460/- was liable to tax under the provision of section 50C of the Act. Therefore, the case of the assessee was reopened by issue of notice u/s 148 dated 28.03.2019. In the course of assessment, the A.O. had addition of Rs.45,30,460/- u/s 50C of the Act. Further certain other additions were also made and the assessment was completed u/s 143(3) r.w.s. 147 of the Act on 08.11.2019 at total income of Rs.72,68,740/-.

4. Aggrieved with the order of the A.O, assessee had filed an appeal before the first appellate authority, which was decided by the Ld. CIT(A) vide the impugned order and the appeal of the assessee was partly allowed.

5. Now the assessee is in second appeal before us. The assessee has raised the following grounds of appeal:

1. *Rules of Natural Justice Not followed:*

The learned AO has erred in passing order of assessment without observing rules of natural justice. The objection filed are not disposed off by passing of speaking order by the Ld DCIT Circle 3(3) Ahmedabad (Referred to as AO). The major objection to reopening was absence of no new information and receipt of part consideration Rs 585000 on 03.10.2024 i.e seven years prior to previous year under consideration. The approval of Principal Commissioner of Income Tax is not provided as requested in letter of objection to reopening.

2. *Order given ignoring provisions and explanations of Section 50C(5) introduced by Finance Act, 2016:*

The Learned AO erred in ignoring the provisions of Section 50C(5), introduced by the Finance Act, 2016, and failed to consider material facts on record, including the agreement to sale dated in FY 2004-05 and letter dated 02.09.2015. The AO overlooked that the consideration was received by Cheque in FY 2004-05. Therefore, the case falls within the exception under Section 50C(5) of the Act.

3. *Order passed without regard to Definition of Transfer under 2(47):*

The Learned AO erred in passing the order without considering the definition of transfer' under Section 2(47)(v), which covers transactions under Section 53A of the Transfer of Property Act. The order disregarded relevant facts, explanations, and supporting documentary evidence. Hence, the assessment lacks proper legal and factual basis.

4. *Speaking Order:*

The learned AO has issued notice on borrowed satisfaction to believe that income has escaped assessment under the Act and further completed assessment under section 143 of the Act, without refuting to facts brought on record by the AO.

5. *Penalty proceedings under Section 27(1)(c) and 271(1)-(b) of the Act:*

All the above grounds of appeal are independent from one other and without prejudice to one other. We further crave to add new grounds of appeal during the course of hearing before your Honor.

6. Shri. Kalpesh Shah, Ld. A.R of the assessee submitted that the assessee had sold a plot No. 61 at Rajpathnagar Association for a consideration of Rs.14,59,860/-, the stamp duty value of which was Rs.

59,90,320/-. He submitted that the agreement for sale of property was entered into by the assessee in the financial year 2004-05 and the first payment of Rs. 5,85,000/- was received by cheque on 03.10.2004. The Ld. AR submitted that this fact was brought to the knowledge of AO in the course of assessment proceedings and a request was made that the stamp duty value of the property as on the date of agreement i.e. as on 03.10.2004 should be considered in accordance with the proviso to section 50C(1) of Act. He further submitted that the assessee had also disputed the Jantri value as adopted by the assessee which was in excess of fair market value of the property as on date of transfer.

7. Per contra, Shri. Rameshwar P Meena, Ld. Sr. D.R submitted that no copy of agreement dated 03.10.2004 was brought on record to establish that the property was sold vide a previous agreement. He explained that the property was given on lease to one Shri. Virendra Singh Sarvaiya for a period of 30 years vide lease agreement dated 31.01.2002, which was duly registered with sub-registrar office. The said lease deed was cancelled vide registered cancellation of lease dated 08.07.2011. The Id. Sr. D.R submitted that considering the lease agreement already entered by the assessee, no agreement dated 03.10.2004 could have been made by the assessee for sale of land. He further submitted that the initial payment of Rs. 5,85,860/- made on 03.10.2004 might have been on account of advance lease rental, which was subsequently considered as sale consideration as the sale was made to the spouse of the lessee. In view of this fact, the Ld. Sr. D.R submitted that the stamp duty value of the property as on 03.10.2004

could not have been considered, as no such agreement was made by the assessee.

8. In rejoinder the Id. A.R submitted that as the assessee had disputed the stamp duty value as on date of sale, the A.O should have referred the matter to the DVO to find out the fair market value of the property in accordance with the provision of Section 50C(2) of the Act.

9. We have considered the rival submissions. There is no dispute to the fact that the assessee had sold the plot of land vide sale deed dated 08.07.2011 for a consideration of Rs.14,59,860/-, the stamp duty value of which was Rs.59,90,320/-. The contention of the assessee is that an agreement to sale of the land was made on 03.10.2004, when the first payment of Rs. 5,85,000/- was received by the assessee. As per proviso to Section 50C(1) of the Act, if the date of agreement fixing the amount of consideration and the date of registration are not the same, then the stamp duty value of the property on the date of the agreement may be taken into consideration for the purpose of computing the full value of consideration. In the present case the assessee has not brought on record any agreement dated 03.10.2004 for the sale of property. Merely because the first payment of Rs.5,85,000/- was received on 03.10.2004, that date cannot be taken as date of agreement. As rightly pointed out by the Revenue, the assessee had entered into a 30 years lease of the property which was cancelled only on 08.07.2011. Therefore, the payment of Rs. 5,85,000/- received on 03.10.2004 being on account of lease rental cannot be ruled out. The assessee has not brought on record the copy of the lease agreement and the copy of the cancellation

of lease deed, so that this fact could be verified. Be that as it may, considering the fact that the property was under lease agreement for 30 years, the contention of the assessee that he had entered into an agreement for sale on 03.10.2004 cannot be accepted. No such agreement fixing the amount of consideration has been brought on record by the assessee. Therefore, the assessee's contention to consider the stamp duty value of the property as on 03.10.2024, is rejected.

10. The alternate argument of the assessee is that the stamp duty value adopted by the A.O was in excess of fair market value of the property. This aspect was not considered by the A.O in the course of assessment proceeding. In accordance with the provisions of section 50C(2) of the Act, the A.O should have referred the matter to the Valuation Officer to find out the fair market value of the property. In the interest of justice, therefore, we deem it proper to set aside the matter to the file of the Jurisdictional A.O. with the direction to refer the matter to the Valuation Officer to find out the fair market value of the property as on date of the sale. Thereafter, the income under the provision of section 50C of the Act may be computed on the basis of the report of the DVO, after allowing an opportunity of being heard to the assessee.

12. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the Court on 13/01/2026 at Ahmedabad.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Sd/-
(NARENDRA PRASAD SINHA)
Accountant Member

TRUE COPY

Dated - 13th January, 2026
Nk

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 / DR, ITAT,
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

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