

**IN THE INCOME TAX APPELLATE TRIBUNAL
“E” BENCH MUMBAI**

**BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No. 6522/Mum/2025
(Assessment Year: 2016-17)**

Kundan Jayantilal Bhatt 277, Kundan Bunglow Behind Yashwant Heights, Opp. Vidyavihar School, Virar (West), Shivansai, Thane, Maharashtra – 401 303	Vs.	ITO Circle-4, Room No. 2, Ashar IT Park, 6 th floor, Road No. 16Z, Wagle Industrial Estate, Thane, Maharashtra- 400604
PAN/GIR No. ADJPB4878K		
(Applicant)		(Respondent)

Assessee by	Shri Ravi Gupta, Ld. AR
Revenue by	Shri Hemanshu Joshi, Ld. DR

Date of Hearing	22.01.2026
Date of Pronouncement	30.01.2026

आदेश / ORDER

PER MAKARAND VASANT MAHADEOKAR, AM:

This appeal is directed against the order passed by the Commissioner of Income-tax (Appeals)-47, Mumbai [hereinafter referred to as “CIT(A)”], under section 250 of the Income-tax Act, 1961[hereinafter referred to as “the Act”], dated 22.08.2025, arising out of the assessment order passed by the Assistant

Commissioner of Income-tax, Circle 4, Thane[hereinafter referred to as “Assessing Officer”], under section 143(3) read with section 142A of the Act, dated 21.08.2019.

Facts of the Case

2. The assessee is an individual. The return of income for A.Y. 2016-17 was filed on 06.03.2017 declaring total income of Rs. 30,10,680/-. The case was selected for complete scrutiny under CASS and statutory notices under sections 143(2) and 142(1) of the Act were issued.

3. During the course of assessment proceedings, it was noticed by the Assessing Officer that the assessee had purchased an immovable property being a plot of land from M/s. Satyam Builders vide conveyance deed dated 20.10.2015 for a consideration of Rs. 5,00,000/-, whereas the stamp duty value of the said property was Rs. 86,06,000/-. The difference between the stamp duty value and the purchase consideration worked out to Rs. 81,06,000/-.

4. The Assessing Officer invoked the provisions of section 56(2)(vii)(b) of the Act and issued show cause notice dated 12.12.2018 proposing to treat the difference amount of Rs. 81,06,000/- as income of the assessee. In response, the assessee requested vide letter dated 18.12.2018 that the matter be referred to the District Valuation Officer for determination of the fair market value of the property. Accordingly, a reference was made to the District Valuation Officer on 19.12.2018.

5. The Assessing Officer recorded that in terms of section 142A(6) of the Act, the Valuation Officer was required to send his report within six months from the end of the month in which reference was made, which, in the present case, expired on 30.06.2019. However, no valuation report was received from the District Valuation Officer till the date of passing of the assessment order.

6. Since the assessment proceedings were getting barred by limitation on 31.08.2019, the Assessing Officer issued a further show cause notice to the assessee on 06.08.2019. According to the Assessing Officer, no reply was furnished by the assessee. Accordingly, the Assessing Officer completed the assessment under section 143(3) read with section 142A of the Act, dated 21.08.2019, and made an addition of Rs. 81,06,000/- under section 56(2)(vii)(b) of the Act. The total assessed income was determined at Rs. 1,11,16,680/-. Penalty proceedings under section 274 read with section 271(1)(c) of the Act were also initiated.

7. The assessee, preferred appeal before CIT(A), who reiterated the facts and noted that he assessee had purchased a plot of land for Rs. 5,00,000/- and the stamp duty value thereof was Rs. 86,06,000/-. It was further recorded by the learned CIT(A) that, on the request of the assessee, reference was made by the Assessing Officer to the District Valuation Officer under section 142A of the Act on 19.12.2018. However, no valuation report was

received from the District Valuation Officer till the date of passing of the assessment order.

8. The assessee contended before the learned CIT(A) that the land was reserved for garden and a temple had already been constructed thereon and, therefore, the market value was much lower than the stamp duty value. It was also contended that the Assessing Officer ought not to have made the addition without obtaining the valuation report from the District Valuation Officer.

9. The learned CIT(A), however, held that the assessee had not produced any evidence to substantiate the claim regarding reservation of land or restricted development potential. It was further held that the sale deed did not mention any such reservation and no justification was shown for purchase of the property at a value substantially lower than the stamp duty value. Accordingly, the learned CIT(A) confirmed the addition of Rs. 81,06,000/- and dismissed the appeal of the assessee.

10. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising following grounds of appeal:

1. *In the facts and circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals) [through the National Faceless Appeal Centre] has erred in sustaining the action of the Ld. Assessing Officer in making an addition of Rs.81,06,000/- under section 56(2)(vii)(b) of the Income-tax Act, 1961, in utter disregard to the factual and legal matrix of the case.*
2. *In the facts and circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals) [through the National Faceless Appeal Centre] has erred in sustaining the action of the Ld. Assessing Officer without appreciating the deficiencies affecting the*

value of land purchased, as duly submitted during the course of assessment proceedings.

- 3. In the facts and circumstances of the case and in law, the Learned Commissioner of Income Tax (Appeals) has failed to consider the fact that the reference made by Ld. AO to the Departmental Valuation Officer (DVO) is pending, thereby rendering the addition unjustified and premature.*
- 4. In the facts and circumstances of the case and in law, the Learned Commissioner of Income Tax (Appeals) has failed to consider the fact that the DVO is empowered to value the immovable property when an application is made under section 55A of the Act and hence, the valuation adopted by the Assessing Officer was unsustainable.*
- 5. Without prejudice to the above and in the facts and circumstances of the case and in law the impugned immovable property was transferred in earlier assessment year and hence section 56(2)(vii)(b) cannot be invoked during the year under consideration.*
- 6. The above grounds are taken without prejudice to each other. The appellants crave leave to add, alter, amend, delete, or modify any of the above grounds of appeal at the time of hearing.*

11. During the course of hearing before us, the Authorised Representative of the assessee submitted that the matter may be restored to the file of the Assessing Officer for fresh adjudication after considering the valuation report of the District Valuation Officer, since even the learned Commissioner of Income-tax (Appeals) has recorded a categorical finding that the valuation report from the DVO was not received till the date of passing of the assessment order. It was submitted that the addition has been made without the benefit of such valuation report and, therefore, the matter requires reconsideration on merits after taking into account the valuation as determined by the competent authority.

12. The learned Departmental Representative raised no objection to the aforesaid submission of the Authorised Representative of the assessee.

13. We have considered the rival submissions and perused the material available on record. It is an undisputed fact that the Assessing Officer made a reference to the District Valuation Officer under section 142A of the Act on 19.12.2018 for determining the fair market value of the property purchased by the assessee. It is also not in dispute that no valuation report was received from the District Valuation Officer till the date of passing of the assessment order on 21.08.2019.

14. The addition under section 56(2)(vii)(b) of the Act has been made solely on the basis of the stamp duty value without considering any valuation report from the District Valuation Officer. Even the learned CIT(A) has recorded that the valuation report from the District Valuation Officer was not available at the time of completion of the assessment.

15. In our considered view, once the Assessing Officer had made a statutory reference to the District Valuation Officer, the matter ought to have been decided on the basis of the valuation so determined by the competent authority. The absence of such valuation report goes to the root of the matter and the issue cannot be adjudicated finally without considering the valuation report.

16. We also note that, in terms of Explanation 1(iv) to section 153 of the Act (as applicable to the relevant assessment year), the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under section 142A and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer is required to be excluded while computing the period of limitation for completion of assessment. Further, section 142A(6) of the Act provides that the Valuation Officer shall send a copy of his report to the Assessing Officer and the assessee within the prescribed period.

17. Thus, the statutory scheme itself contemplates that the time taken for obtaining the valuation report from the District Valuation Officer is to be excluded for the purpose of limitation. Therefore, the assessment ought not to have been hurriedly completed merely on the ground of limitation without waiting for the valuation report, especially when the statute provides for exclusion of such period.

18. In view of the above facts and legal position, we consider it appropriate to set aside the order of the learned Commissioner of Income-tax (Appeals) as well as the assessment order passed by the Assessing Officer on this issue and restore the matter to the file of the Assessing Officer for fresh adjudication. The Assessing Officer is directed to decide the issue afresh in accordance with law after considering the valuation report of the District Valuation

Officer and after affording reasonable opportunity of being heard to the assessee.

19. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 30.01.2026.

Sd/-
(ANIKESH BANERJEE)
JUDICIAL MEMBER

Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai, Dated 30/01/2026
Dhananjay, Sr.PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai