

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"F" BENCH, MUMBAI**

**BEFORE SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**SHRI BIJAYANANDA PRUETH, ACCOUNTANT MEMBER**

**ITA No. 433/Mum./2026**

**(Assessment Year : 2010-11)**

**Jayant Shamji Cheda,**

C/o. Prince pipes & Fittings Ltd., 8<sup>th</sup> Floor,

The Ruby, 29, S.B. Marg, Dadar West,

Mumbai – 400028.

PAN : AABPC1336Q

..... Appellant

v/s

**Deputy Commissioner of Income Tax- 7(1),**

Aayakar Bhavan, M.K. Road, Mumbai – 400020,

Maharashtra.

..... Respondent

Assessee by : Shri Rajiv Khandelwal (Virtually Appeared)

Revenue by : Shri Rajesh Sakhardande, Sr. DR.

Date of Hearing – 13/04/2026

Date of Order – 17/04/2026

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The assessee has filed the present appeal against the impugned order dated 28.11.2025, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals) – 50, Mumbai, [*"learned CIT(A)"*], for the assessment year 2010-11.

2. In this appeal, the assessee has raised the following grounds: -

*"The Commissioner of Income-tax (Appeals) - 50, Mumbai (hereinafter referred to as the CIT(A)) erred in determining the full value of consideration received on sale of an immovable property at Rs.65,29,000 on the basis of a valuation report of the Departmental Valuation Officer (DVO) as against Rs.52,50,000 actually received by the appellant, and consequently, directing the Assessing Officer to re-compute the short-term capital gains accordingly.*

*The appellant contends that on the facts and in the circumstances of the case and in law. the CIT(A) ought not to have determined the full value of consideration at Rs.65,29,000 inasmuch as he has not correctly appreciated the facts of the case in its entirety as the DVO has violated the principles of natural justice in not informing/ serving a notice on the appellant before/after the survey of the property and hence, the action of the CIT(A) is bad in law and needs to be reversed."*

3. The solitary grievance of the assessee is against the enhancement in the amount of short-term capital gains earned by the assessee from the sale of the flat.

4. We have considered the submissions of both sides and perused the material available on record. The brief facts of the case are that the assessee is an individual, and for the year under consideration, filed his return of income on 15.10.2010, declaring a total income of Rs. 1,01,36,600/-. The return of income filed by the assessee was selected for scrutiny, and statutory notices u/ss 143(2) and 142(1) of the Act were issued and served on the assessee. During the assessment proceedings, from the computation of income, it was observed that the assessee has offered an amount of Rs. 2,25,019/- being short-term capital gain earned on the sale of a property situated at Landmark Tower 'A' wing, Mumbai, at Rs. 52,50,000/-. Upon verification of the sale agreement, it was noticed that the Stamp Duty Authority has valued the market value of the said property at Rs. 66,94,373/-. Accordingly, the Assessing Officer ("AO"), vide order dated 22.03.2013, passed u/s 143(3) of the Act, held that the assessee should have offered a sum of Rs. 14,44,373/- u/s 50C of the Act. Accordingly, the differential amount of Rs.12,19,354/- was added to the short-term capital gain declared by the assessee.

5. The learned CIT(A), vide impugned order, after taking into consideration the valuation report submitted by the Departmental Valuation Officer ("DVO"), whereby the Fair Market Value of the property was determined at Rs.65,29,000/-, directed the AO to recompute the short-term capital gains declared by the assessee after taking into consideration the valuation report of the DVO. Being aggrieved, the Assessee is in appeal before us.

6. During the hearing, the learned Authorised Representative ("*learned AR*") by referring to the valuation report of the DVO u/s 56 of the Act r.w.s 16A(5) of the Wealth Tax Act, 1957, whereby the value of the property was determined at Rs.65,29,000/-, submitted that the said valuation was determined without seeking an objection from the assessee as required under the provisions of section 16A(5) of the Wealth Tax Act, 1957. Thus, the learned AR submitted that there is a clear violation of the procedure to be followed by the DVO. In support of its submission, the learned AR also placed on record the affidavit of the assessee, submitting as follows: -

*"I, Jayant Shamji Chheda, aged about 79 years, having office at C/o Prince Pipes & Fittings Limited, 8<sup>th</sup> Floor, The Ruby, 29, Senapati Bapat Marg, Dadar (W), Mumbai 400 028, do hereby solemnly affirm and state as under:*

*1. That I have sold an immovable property being Flat No.1901, 19<sup>th</sup> Floor, Landmark Tower, A Wing, G.D. Ambekar Marg, Dadar (E), Mumbai 400 014 by sale deed dated 23 July, 2009 for a consideration of Rs.52,50,000/-*

*2. That the aforesaid immovable property was referred to the Valuation Officer-II, Mumbai (DVO) for determination of its fair market value as at 23<sup>rd</sup> July, 2009 for the purposes of section 50C of the Income-tax Act, 1961;*

*3. That the DVO issued a valuation report dated 26.08.2024 determining the fair market value of the aforesaid immovable property at Rs 65,29,000/-*

*4. That though the DVO has mentioned in his report that a notice under section 16A(4) (of the Wealth Tax Act, 1957) dated 20.08.2024 was issued to me before concluding the valuation exercise, I hereby state that I have not received*

*any such notice from the DVO, and hence, could not have replied to the said notice,*

*5. That no benefit would accrue to me on account of not replying to the aforesaid notice of the DVO.*

7. On the other hand, the learned Departmental Representative ("learned DR") submitted that the valuation report from the DVO was sought after the request made by the assessee before the learned CIT(A), and once the DVO has arrived at any valuation, the said valuation should be considered.

8. Having considered the submissions of both sides and perused the material available on record, we find that the assessee purchased a flat for a total sum of Rs.46,50,00/- vide agreement dated 11.03.2008. The said flat was sold vide agreement dated 20.03.2009 for a total consideration of Rs.52,50,000/-, thereby resulting in a short-term capital gain of Rs.2,25,019/-. As it is evident from the perusal of the record that the AO made a further addition to the short-term capital gain declared by the assessee on the basis that the market value of the property as per the Stamp Duty Authority is Rs.66,94,373/-. During the appellate proceedings before the learned CIT(A), the assessee raised a specific objection to the valuation of the property by the Stamp Duty Authority and submitted that the flat was in an SRA Project and, therefore, the market value was significantly lower than the ready reckoner rate adopted for stamp duty purposes. Accordingly, the assessee requested that the matter be referred to the DVO for determining the actual Fair Market Value of the property.

9. We find that the DVO vide its report arrived at the Fair Market Value of the property at Rs.65,29,000/-. Even though the valuation of the property as per the DVO was lower than the ready reckoner rate, it was higher than the consideration at which the said flat was sold.

10. The primary contention of the assessee is that while determining the Fair Market Value of the flat, the DVO did not seek the objections of the assessee. From the perusal of the valuation report submitted by the DVO, a copy of which was placed on record before us, we find that on 20.08.2024, notice was issued to the assessee seeking its objection. As per the assessee, the said notice was not received by him, and in this regard, the assessee has also filed an affidavit as noted in the following paragraph.

11. We find that the provisions of section 16A(4) of the Wealth Tax Act, 1957, specifically require the Valuation Officer to serve a notice on the assessee, intimating the value which he proposes to estimate and giving an opportunity to the assessee to state his objections.

12. From the perusal of the valuation report by the DVO in the present case, we find that as the assessee did not receive any notice from the DVO as per section 16A(4) of the Wealth Tax Act, 1957, no objection was submitted by the assessee and accordingly the value was determined at Rs.65,29,000/- on the basis of the documents produced before the DVO.

13. Therefore, in the facts and circumstances of the present case, we are of the considered view that the DVO, while determining the Fair Market Value of the flat sold by the assessee, did not properly follow the procedure as laid

down u/s 16A of the Wealth Tax Act, 1957, as no notice was served on the assessee. Accordingly, in the interest of justice and fair play, we deem it appropriate to restore this issue to the file of the Jurisdictional AO for *de novo* adjudication after seeking a fresh report from the DVO in compliance with the relevant statutory provisions. We order accordingly. With the above directions, the impugned order on this issue is set aside, and the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 17/04/2026

**Sd/-  
BIJAYANANDA PRUSETH  
ACCOUNTANT MEMBER**

**Sd/-  
SANDEEP SINGH KARHAIL  
JUDICIAL MEMBER**

**MUMBAI, DATED: 17/04/2026**

*M. Ranganath Vithal  
Sr. Private Secretary*

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar  
ITAT, Mumbai