आयकर अपीलीय अधिकरण, मुंबई पीठें, मुंबई
INCOME TAX APPELLATE TRIBUNAL, MUMBAI
BENCHES, MUMBAI

BENCH: SMC

BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER AND
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER

ITA 7492/MUM/2025 (निर्धारण वर्ष/Assessment Year: **2011-12**)		
SAWALCHAND CHUNILAL BAFNA HUF 4/13 5TH FLOOR NAVJIVAN SOCIETY, LAMINGTON ROAD. MUMBAI-400008, MAHARASHTRA	**Vs.**	**INCOME TAX OFFICER-16(1)(1)** MUMBAI-400020, MAHARASHTRA
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**

Permanent Account Number of Assessee:	**AAAHB4030M**
अपीलार्थी द्वारा/Appellant represented by:	**Shri Dalpat Shah**
प्रत्यर्थी द्वारा/Respondent represented by:	**Shri Nitin Kulkarni**

सुनवाई की तारीख / Date of conclusion of hearing:	**20-Jul-2026**
घोषणा की तारीख / Date of pronouncement:	**16.10.2026**

आदेश / ORDER

PER SMT. BEENA PILLAI, JUDICIAL MEMBER:

Present appeal filed by the assesse arises out of order dated 16/09/2025 passed by the ADDL/JCIT (A)-Panaji [in short, Ld. CIT(A)] for Assessment Year (A.Y.) 2011-12, on following grounds of appeal:

1. Substitution of Sale Consideration U/sec 50C

1.1. On the facts and circumstances of the case and in Law, the Id. Jt/ Addl. Commissioner of Income Tax (Apples), Panaji, erred in confirming the computation of Long Term Capital Gain at Rs.36.27.887/-, taking market value as informed by the Sub-Registrar Office, Bhinmal,

www.taxcode.in

Rajasthan as full value of Consideration, against the Long Term Capital Loss of Rs. 1,29.690/-returned by the Appellant on actual consideration, in respect of two plots of land sold by the appellant.

1.2. The Jt/Addl. Commissioner (Appeals) has erred in not directing the Assessing Officer to assess the capital gain based on the Report of the DVO's to whom the Assessing Officer had referred for the valuation of the said plots U/sec 55A of the Act.

1.3. The Commissioner (Appeals) has also erred in not appreciating the fact that the Sub-Registrar has not taken into consideration vital aspects of disputed title of the said Plots being subjudice and therefore the fair value of the same is the actual consideration received by the Appellant.

2. Disallowance of interest cost claimed U/sec 48

On the facts and circumstances of the case and in Law, the Assessing Officer has erred in not allowing interest cost incurred till the date of acquisition of the said plots with indexation U/sec 48 of the Act when the same was claimed In the income tax return filed.

3 The appellate crave leaves to add, alter, modify or submit, resubmit afresh any or all the grounds of appeal or any supporting evidence or as may be required in connection with the grounds herein of appeal on or before hearing of the same."

2. Brief facts of the case are as under:

The assessee is an individual and an investor, deriving income under the head "Income from Other Sources". During the year under consideration, the assessee sold two plots of land and, in the return of income, claimed a long-term capital loss arising from the said transactions. The assessee filed his return of income on 27.03.2012, declaring a total income of ₹5,00,380/-. The return was initially processed under section 143(1) of the Act. Subsequently, the case was selected for scrutiny to examine the taxability of the sale of immovable properties during the year under consideration.

www.taxcode.in

2.1. Accordingly, statutory notices under sections 143(2) and 142(1) of the Act were issued, calling upon the assessee to furnish the relevant details. In response thereto, the representative of the assessee appeared before the Ld.AO and furnished the details called for.

2.2. On the basis of the information available through the Annual Information Return (AIR), the Ld.AO noticed that the assessee had sold the following two immovable properties during the year under consideration:

(i) Land situated at Thatheron ki Gali, Bhinmal, measuring 2,058.93 sq. ft. (228.77 sq. yards), which was sold under an agreement dated 25.10.2011 for a consideration of ₹3,00,000/-. The cost of acquisition of the said land, as per the agreement dated 27.05.1988, was ₹60,000/-.

(ii) Land situated at Station Road, Bhinmal, measuring 4,187.25 sq. ft. (465.25 sq. yards), which was sold under an agreement dated 25.01.2011 for a consideration of ₹18,00,000/-. The cost of acquisition of the said land, as per the agreement dated 27.05.1988, was ₹4,01,000/-.

2.3. The Ld.AO called upon the assessee to explain the computation of capital gains arising from the sale of the aforesaid properties. Vide letter dated 13.02.2014, the assessee was specifically asked to furnish the details and computation of long-term capital gains in respect of the two transactions. In response, the assessee, vide letter dated 26.02.2014, furnished the requisite details and claimed an aggregate long-term capital loss of

www.taxcode.in

₹12,26,145/-, having adopted an aggregate sale consideration of ₹21,00,000/- in respect of the two properties.

Computation of Capital Gain

Particulars	Amount	Amount
Full Value of Consideration		2,100,000
Less: Cost of Acquisition	2,035,845	
1. Indexed Cost of Acquisition (461000 / 161 * 711)		
Year Amount Mar-1989 4,61,000		
2. Interest added upto March 2000 to the Capital Value	1,182,100	
3. Interest added from March 1990 to March 2000 to the Capital Value.	108,200	3,326,145
Loss on Sale of House		(1,226,145)

2.4. The Ld.AO, observed that the aggregate sale consideration adopted by the assessee differed from the valuation reflected in the AIR information. According to the Ld.AO, the AIR information indicated a value of ₹51,15,887/- in respect of the property transactions. In order to ascertain the market value adopted for stamp-duty purposes, the Ld.AO issued a notice under section 133(6) of the Act to the office of the Sub-Registrar, calling for the relevant valuation particulars.

2.5. In response, the Sub-Registrar, vide letter dated 25.02.2014, furnished the agreement values and the corresponding market values as under:

www.taxcode.in

	AGREEMENT VALUE	MKT.VAL.AS PER DLC OF THE SUB-REGISTRAR'S OFFICE
a) 2011000447 dt.25.01.2011	RS. 3,00,000/-	Rs. 6,40,032/-
b)2011000448 dt.25.01.2011	Rs.18,00,000/-	Rs. 51,15,887/-

2.6. On the basis of the information received from the Sub-Registrar, the Ld.AO proceeded to examine the difference between the consideration disclosed by the assessee and the values reported by the registration authorities. The Ld.AO, thus, called upon the assessee to explain as to why the market value reported by the registration authorities should not be adopted for computing the long-term capital gains arising from the sale of the two plots of land.

2.7. In response, the assessee, vide letter dated 19.03.2014, submitted that stamp duty on the actual consideration received, namely, ₹18,00,000/- and ₹3,00,000/- in respect of the two properties, respectively, had been paid at the time of impounding of the documents. It was further submitted that the assessee was not aware of any additional stamp duty paid by the purchasers subsequent to the impounding of the documents. The assessee reiterated that the actual consideration received towards the sale of the properties was only ₹21,00,000/- in aggregate, comprising ₹18,00,000/- and ₹3,00,000/-, respectively, and that no further consideration had been received.

www.taxcode.in

2.8. The assessee further contended that the properties were under dispute at the time of sale and that, owing to the pending disputes, the consideration realised was lower than the fair value of the properties. It was submitted that the properties had been sold orally approximately three years prior to the registration of the sale documents and that the purchasers had independently settled the disputes with the disputants by utilising their own resources. In support of this contention, the assessee furnished copies of the relevant case papers relating to the disputes concerning the properties.

2.9. Without prejudice to the aforesaid submissions, the assessee requested the Ld.AO to refer the matter to the Departmental Valuation Officer (DVO) for determining the fair market value of the properties, in the event that the valuation adopted by the stamp valuation authorities was proposed to be substituted for the actual sale consideration.

2.10. The Ld.AO accordingly addressed a letter to the DVO for valuation of the properties. However, without awaiting the valuation report from the DVO, the Ld.AO proceeded to recompute the capital gains by adopting the values furnished by the stamp valuation authorities. Consequently, an addition was made to the income of the assessee on account of the difference between the consideration disclosed by the assessee and the value adopted by the Ld.AO for the purposes of computing long-term capital gains.

Aggrieved by the order passed by the Ld.AO, the assesse preferred appeal before the Ld.CIT(A).

www.taxcode.in

3. The Ld.CIT(A) while considering the submissions of the assesse observed and held as under:

> *"Upon careful perusal of the impugned assessment order and information available on the record it is seen that the AO adopted the value determined by the Sub-Registrar for the purposes of stamp duty in accordance with section 50C of the Act. The appellant contends that only the actual sale consideration should be taken into account.*
>
> *Section 50C is a special provision that overrides general principles of computation of capital gains. It clearly provides that where the consideration declared is less than the value adopted by the stamp duty authority, the latter shall be deemed to be the full value of consideration for capital gains computation. The statute also provides an in-built remedy to the assessee under section 50C(2), whereby he may request that the matter be referred to the Valuation Officer. In the present case, no such request was made, nor has the appellant demonstrated with any material evidence that the stamp duty valuation exceeded the fair market value.*
>
> *Case laws relied upon by this appellate authority are as under:*
>
> *In CIT v. Chandni Bhuchar (323 ITR 510, P&H HC), it was held that section 50C is mandatory and the AO is duty-bound to adopt the stamp duty valuation unless the assessee seeks reference to DVO.*
>
> *The Hon'ble ITAT in M.A. Aleem v. ITO (ITA No. 254/Mds/2012) also reiterated that unless reference is sought, AO has no discretion but to adopt stamp duty value.*
>
> *The AO was legally justified in adopting the values of Rs.6,40,032/- and Rs.51,15,887/- as sale consideration. Accordingly, ground no.01 raised by the appellant being devoid of merit is dismissed herewith."*

3.1. The Ld.CIT(A), however, dismissed the appeal of the assessee without accepting the contention that the actual consideration received by the assessee was ₹3,00,000/- and ₹18,00,000/- in respect of the two properties, respectively. The Ld.CIT(A) observed that once the provisions of section 50C of the Act were attracted, the actual sale consideration disclosed by the assessee could not be adopted in place of the stamp-duty valuation unless the assessee discharged the onus of establishing that the fair market

www.taxcode.in

value of the properties was lower than the value adopted by the stamp valuation authority. The Ld.CIT(A) further observed that the assessee had not furnished any documentary evidence, such as a valuation report or other material contradicting the valuation furnished by the Sub-Registrar. Accordingly, the Ld.CIT(A) upheld the adoption of the stamp-duty value for computing the capital gains and dismissed the appeal of the assessee.

Aggrieved by the order of the Ld.CIT(A), assesse is in appeal before this tribunal.

4. Before us, the Ld. AR submitted that the Ld.AO had referred the valuation of both the properties to the DVO under section 50C(2) of the Act. However, without awaiting the valuation report, the Assessing Officer proceeded to complete the assessment by adopting the values furnished by the Sub-Registrar for computing the capital gains. It was submitted that the Ld. CIT(A), too, proceeded to decide the appeal without ascertaining whether the valuation report had been received or considering the outcome of the reference made to the DVO.

4.1. The Ld.AR further submitted that the properties were sold under compelling circumstances arising from genuine financial hardship and were subject to litigation on account of encroachment. He contended that these circumstances had been specifically recorded by the Ld.AO in the assessment order but were not duly considered while determining the capital gains. Accordingly, the Ld.AR pleaded that the matter required reconsideration after obtaining and examining the valuation report of the DVO.

www.taxcode.in

4.2. On the contrary, the Ld.DR relied upon the orders of the authorities below and supported the adoption of the stamp-duty valuation for computing the capital gains.

We have perused the submissions advanced by both the sides in the light of the records placed before us.

5. It is noted that the primary contention advanced by the Ld.AR is that the assessment order is not legally sustainable, having been passed without awaiting the valuation report from the DVO, despite a reference having been made under section 50C(2) of the Income-tax Act, 1961.

5.1. The contention of the Ld.AR proceeds on the premise that where the assessee disputes the stamp-duty valuation and the Ld.AO makes a reference to the DVO under section 50C(2) of the Act, the Ld.AO is required to consider the valuation report before determining the capital gains and completing the assessment.

5.2. In this regard, it is noted that an identical issue came up for consideration before *co-ordinate Bench of this Tribunal* in case of *Rajni Arvind Birla v. ITO*, in *ITA No. 930/AHD/2025, order dated 28.11.2025*. The co-ordinate Bench observed as under:

> "*18. ……..*
>
> *The scheme of section 50C(2) read with section 142A(6) and Explanation 1(iii) to section 153 makes this position abundantly clear. The law explicitly excludes, for the purpose of limitation, the period commencing from the date of reference to the Valuation Officer till the date on which the report is received.*
>
> *19. The legislative intent is that the assessment should be completed on the basis of the DVO's determination and not by preempting it. Completion of assessment without awaiting the report would defeat the very purpose*

of the statutory reference mechanism. The assessment order dated 22.09.2021 passed while the reference was pending and before receipt of the DVO's report cannot be said to be a valid and complete assessment in the eyes of law. The observation of the Assessing Officer that the assessment is "subject to rectification on receipt of valuation report" reinforces that the order was not final. Such a conditional or contingent assessment is alien to the scheme of the Act, which provides for only one final assessment under section 143(3) and does not contemplate a provisional or tentative determination of income.

.....
.....
.....
23 Section 153(5) read with Explanation 1(iii) provides that the period commencing from the date of reference to the Valuation Officer to the date of receipt of the report is to be excluded for computing the period of limitation. This statutory exclusion is a legislative recognition that the Assessing Officer is expected to await the valuation report and that the assessment cannot be completed prematurely. The Assessing Officer, therefore, had sufficient time in law to defer completion of assessment until the DVO's report was received. The action of finalising the assessment despite the pending reference is contrary to this legislative mandate.

24. Section 50C(2) of the Act establishes a mandatory procedural safeguard in favour of the assessee whenever the value adopted by the stamp valuation authority is disputed. The provision obliges the Assessing Officer, upon such objection, to refer the valuation of the capital asset to a Departmental Valuation Officer for determination of its fair market value. This mechanism, by incorporation of the procedure prescribed under section 16A of the Wealth-tax Act, 1957, mandates that before finalising such valuation, the Valuation Officer must give the assessee a reasonable opportunity of being heard and to produce evidence in support of the declared value. Failure to adhere to this procedure or to afford the assessee an opportunity to raise objections to the proposed valuation constitutes a violation of the statutory right vested under section 50C(2) and renders the assessment legally unsustainable as being contrary to the principles of natural justice. In the present case, though the Assessing Officer did make the reference, he failed to await the DVO's determination and instead proceeded to compute capital gains based on the stamp duty valuation. This deprived the assessee of the statutory right to contest the valuation before an independent authority. The violation of section 50C(2), being a procedural safeguard founded on principles of natural justice, renders the assessment unsustainable.

25. We also find substantial force in the assessee's submission regarding the exceptional hardship under which the property in question was sold and the consequent deprivation of opportunity to be heard on the DVO's valuation. The record reveals that the assessee was compelled to dispose

of the property owing to acute personal and financial exigencies, and the sale was bona fide, negotiated at a price consistent with prevailing market conditions. In such circumstances, it cannot be said that the transaction was designed to evade tax or to understate consideration. Notwithstanding this, the Assessing Officer adopted the stamp duty valuation without awaiting the report of the Valuation Officer and without affording the assessee an opportunity to contest the valuation subsequently made. It is pertinent to note that no opportunity as mandated under section 16A(4) of the Wealth-tax Act, 1957, incorporated into section 50C(2) of the Income-tax Act, was granted to the assessee. The absence of such opportunity constitutes a clear violation of the statutory procedure and the principles of natural justice. Having regard to these circumstances, we are of the opinion that the assessee suffered genuine hardship both in the course of sale and in the subsequent assessment proceedings.

26. We further observe that the learned CIT(A) has not dealt with the judicial precedents specifically relied upon by the assessee in support of her contentions. The order of the CIT(A) merely records that the decisions cited are "distinguishable on facts," without undertaking any analytical discussion or assigning reasons for such distinction. The appellate authority is expected to examine each precedent cited before it, analyse its ratio, and record findings as to why it does or does not apply to the facts of the case. A summary rejection of binding or persuasive authorities without reasoned evaluation amounts to non-application of mind and renders the order vulnerable to judicial scrutiny. In the present case, such omission further weakens the sustainability of the impugned appellate order.

27. On merits, the disallowances made by the Assessing Officer and sustained by the CIT(A) also cannot be upheld. The records reveal that the assessee was not afforded an effective opportunity to substantiate the claims with documentary evidence. The CIT(A) decided the matter without any further hearing despite the assessee's request to produce additional material. The findings of the CIT(A) thus suffer from violation of natural justice and cannot be treated as conclusive. The issues relating to cost of acquisition, indexed cost of improvement and transfer expenses require verification by the Assessing Officer in light of the supporting documents, if any, produced by the assessee."

5.3. The facts of the present case reveals that the assessee had explained the circumstances in which the properties were sold, stating that the properties were under dispute on account of encroachment and that the purchasers had settled the disputes using their own resources. These submissions were supported by

www.taxcode.in

the case papers furnished before the Ld.AO. The assessee had further submitted that the actual consideration received was ₹3,00,000/- and ₹18,00,000/-, respectively, and had sought an independent determination of the fair market value. The significance of these circumstances, however, is not that financial hardship or a pending dispute, by itself, displaces the statutory mandate of section 50C, but that the assessee had raised a specific objection to the stamp-duty valuation and invoked the statutory valuation mechanism.

5.4. Having regard to the aforesaid facts and the reasoning adopted by the *co-ordinate Bench* in *Rajni Arvind Birla (supra)*, we are of the considered view that the valuation reference ought to have been taken to its logical conclusion before the capital gains were finally determined. The Ld.AO having himself made a reference to the DVO, the assessment could not appropriately be concluded by adopting the stamp-duty value without considering the valuation determination sought through that reference. The failure to await the report in accordance with provision of Sec. 153(5), Explanation 1(iii) also deprived the assessee of an effective opportunity to place objections and supporting material on record in relation to the valuation determined by the DVO if any.

5.5. Respectfully following the view taken by the *co-ordinate Bench* in *Rajni Arvind Birla v. ITO (supra)*, we are of the considered opinion that the Ld.AO, having made a reference to the DVO under section 50C(2) of the Act, erred in completing the assessment and making the impugned addition without awaiting the valuation report. The action of the Ld.AO is contrary to the statutory scheme governing

determination of the value under section 50C(2) of the Act. Accordingly, the impugned addition, having been made without awaiting the outcome of the valuation reference, is liable to be deleted.

Accordingly, grounds raised by the assesse stands allowed.

In the result, appeal of the assesse stands allowed.

Order pronounced in the open court on 16.10.2026.

Sd/-	**Sd/-**
MAKARAND VASANT MAHADEOKAR	**BEENA PILLAI**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Mumbai
Dated: 16.10.2026

Kunal Kr.p.s.

Copy to:

1	**SAWALCHAND CHUNILAL BAFNA HUF, 4/13 5TH FLOOR NAVJIVAN SOCIETY, LAMINGTON ROAD. MUMBAI-400008, MAHARASHTRA**
2	**INCOME TAX OFFICER-16(1)(1), MUMBAI, MUMBAI-400020, MAHARASHTRA**
3	THE PCIT / CIT,
4	THE D.R., ITAT, MUMBAI BENCH
5	GUARD FILE

TRUE COPY

**ASSISTANT REGISTRAR /
SR. PRIVATE SECRETARY
I.T.A.T., MUMBAI**

www.taxcode.in