

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

**BEFORE SHRI T.R SENTHIL KUMAR, JUDICIAL MEMBER
And
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

I.T.A. No.905/Ahd/2025
(Assessment Year: 2012-13)

Ambalal Hiralal Oza, 401, Hash Apartment, Nr. Himali Tower, Kenyug Char Rasta, Satellite, Ahmedabad-380015.	Vs.	The Income Tax Officer, Ward-5(3)(4), Ahmedabad.
[PAN No. AAAP08729N]		
(Appellant)	..	(Respondent)

Appellant by :	Shri SN Divetia, with Shri Samir Vora, ARs
Respondent by:	Shri Kamal Deep Singh, Sr. DR

Date of Hearing	10.07.2025
Date of Pronouncement	15.07.2025

O R D E R

PER T.R. SENTHIL KUMAR, JUDICIAL MEMBER

This appeal is filed by the Assessee as against ex-parte appellate order dated 21.03.2024 passed by the Commissioner of Income Tax (Appeals-2), Lucknow, arising out of the reassessment order passed under section 143(3) r.w.s 147 of the Income-tax Act, 1961 [hereinafter referred to as ‘the Act’] relating to the Asst. Year 2012-13.

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2. The registry has noted that there is a delay of 332 days in filing the above appeal. The assessee has filed a notarized affidavit stating that he is 83 years old super senior citizen and not keeping well due to diabetic and blood pressure. His children are also located in Australia and his tax consultant has also not informed about the hearing of notices received by email, which has caused the delay of 332 days in filing the appeal. In the meantime, the assessee's wife appeal was heard by the Co-ordinate Bench of this Tribunal on the very same issue as Co-owner and the matter was set-aside back to the file of the Assessing Officer to determine the value of immovable property sold by the assessee and his wife jointly. Thus, the delay is neither intentional nor wanton and therefore, requested to condone the delay. We are satisfied with the reasons stated in the affidavit and so the delay of 332 days in filing the appeal is hereby condoned.

3. Brief fact of the case is that the assessee and his wife as co-owner of an immovable property at Shreenath Park Society sold the same on 05.12.2011 for Rs.60,00,000/-.The Stamp Duty Authority valued the cost of immovable property at Rs.94,43,030/-.Therefore, the AO invoked the provisions of section 50C of the Act and determined the capital gains. However, the matter was referred to the District Valuation Officer to determine the value, who determined the same at Rs.74,36,400/-. That valuation was also challenged by the

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assessee's wife which travelled before this Tribunal, wherein the Co-ordinate Bench of this Tribunal in ITA No.2028/Ahd/2018 vide order dated 17.05.2022 has set-aside the matter back to the file of the Assessing Office to rework the sale consideration by observing as follows:

“...5.2 In our view, the valuation done by the DVO is on the excessive side since it has not taken into consideration value of similarly placed properties in the same vicinity having same marketable value, taking into consideration various factors like clear title of property etc. Further, as held by various Courts, the DVO should have done a comparable analysis of the CPWD rates and State PWD rates and should not have simply set aside the assessee's objection by stating that CPWD rates is the approved method as per departmental directions. Accordingly, the matter is restored to the file of the AO to rework the sale consideration in light of the observations regarding valuation of property made above. In the result, the impugned order is set aside to the file of AO for reworking the value of sale consideration and the appeal of the assessee is allowed for statistical purposes...”

4. Though the impugned order in this case is an ex-parte order and the assessee being the co-owner of the same immovable property, in the interest of justice, we deem it fit to set-aside the order passed by Lower Authorities with a direction to the Jurisdictional Assessing Officer to re-work the sale consideration and pass appropriate order on merits and in accordance with law by giving opportunity of hearing to the assessee. Thus, the appeal filed by the assessee is allowed for statistical purposes.

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5. In the result, the appeal is allowed for statistical purposes.

This Order pronounced in Open Court on 15.07.2025

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

(True Copy)

Ahmedabad; Dated 15.07.2025
Manish, Sr. PS

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, Surat/Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

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