

**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, AHMEDABAD
BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

I.T.A. No. 523/Ahd/2025
(Assessment Year: 2014-15)

Mehboob Jabir Patel, 1, Shamli Bhamaiya Road, Godhra Shamli Road, Bhamaiya, Godhra-389001 [PAN : ARGPP 7324 R]	Vs.	Income Tax Officer, Ward-1, Godhra
(Appellant)	..	(Respondent)
Assessee represented by :	Shri Hardik Vora, AR	
Revenue represented by:	Shri Sher Singh, CIT-DR	
Date of Hearing	18.03.2026	
Date of Pronouncement	27.05.2026	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT :

This appeal has been filed by the assessee against the order of the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as "CIT(A)" for short) dated 09.01.2025, passed under Section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act" for short], for Assessment Year (AY) 2014-15.

2. The assessee has raised following grounds of appeal :-

"1. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income-Tax (Appeals) has erred in confirming the addition of Rs. 52,38,111/- as income from STCG in A.Y. 2014-15 without considering that, as per section 2(47)(v) of the Act, the property was actually transferred in A.Y. 2016-17 and assessee has appropriately offered the income for taxation in that year.

2. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income-Tax (Appeals) has erred in confirming the addition of a sum of Rs. 52,38,111/- as income from STCG in A.Y.2014-15 without considering that the Ld. AO has disallowed deductions for expenses related to the transfer of property, amounting to Rs. 1,15,000/- for legal fees & brokerage and Rs. 1,60,000/- for transfer cost.

3. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income-Tax (Appeals) has erred in confirming the addition of a sum of Rs. 52,38,111/- as income from STCG in A.Y.2014-15 without considering that the Ld. AO has disallowed deductions for expenses related to the transfer of property, amounting to Rs. 1,98,000/- for stamp duty and Rs. 40,325/- for registration fees.

4. Alternatively, Ld. Assessing Officer may please be given direction to give appropriate effect in AY 2016-17 so as to avoid double taxation."

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3. The brief facts of the case are that the assessee has filed his return of income for the year under consideration on 30.11.2024 declaring total income of Rs.6,22,860/-. The case was selected for scrutiny through CASS. During the year under consideration, the assessee was engaged in the business of processing and sale of quartz sand under the name and style of M/s. Patel Minerals. The books of account of the assessee were duly audited and audit report in Form Nos. 3CB and 3CD was furnished before the lower authorities. During the course of assessment proceedings, the Assessing Officer observed that the assessee had entered into sale transactions in respect of land bearing R.S. No.208/1 and 208/2 situated at Halol. **The sale deeds were executed and registered on 12.04.2013 for an aggregate sale consideration of Rs.1,66,09,000/-.** The Assessing Officer observed that the sale deeds were duly registered in F.Y. 2013-14 relevant to A.Y. 2014-15 and accordingly held that transfer within the meaning of section 2(47) of the Act had taken place during the year under consideration. The Assessing Officer accordingly computed Short Term Capital Gain of Rs.52,38,111/- and added the same to the income of the assessee.

3.1 The contention of the assessee before the Assessing Officer was that though sale deeds were registered on 12.04.2013, substantial consideration remained unpaid, **cheques issued by purchasers were dishonoured/not realized and possession continued with the assessee till receipt of final payment in April, 2015.** It was submitted that legal notice dated 08.11.2013 was issued to the purchasers and possession was handed over only upon receipt of complete consideration in F.Y. 2015-16 relevant to A.Y. 2016-17. Accordingly, capital gain was offered to tax in A.Y. 2016-17. The Assessing Officer, however, rejected the explanation of the assessee by holding that execution and registration of the sale deeds constituted "transfer" within the meaning of section 2(47) of the Act read with the provisions of the Transfer of Property Act, 1882.

4. Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Ld. CIT(A), who upheld the action of the Assessing Officer.

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5. Aggrieved by the order of the Ld. CIT(A), the assessee is now in appeal before the Tribunal.

6. Before us, the Ld. AR submitted that the assessee had not received full consideration at the time of registration of the sale deeds and possession also remained with the assessee till final realization of payment in April 2015. It was argued that transfer u/s 2(47)(v) of the Act could not be said to have been completed merely on execution of sale deed when possession had not been handed over and substantial consideration remained unpaid. In support of the above contention, the assessee has placed reliance on the following:-

- i. Legal notice issued to purchasers dated 08.11.2013;
- ii. Reply of purchasers acknowledging non-payment;
- iii. Understanding between parties permitting retention of possession by assessee;
- iv. Confirmation deed dated 17.12.2015 evidencing receipt of final payment and handing over of possession.

The Ld. AR further submitted that the assessee had already offered the capital gain in A.Y. 2016-17 and, therefore, taxing the same amount again in A.Y. 2014-15 would result in double taxation.

7. The Ld. DR, on the other hand, relied upon the orders of the lower authorities and submitted that the sale deeds were duly executed and registered on 12.04.2013. Therefore, according to the Revenue, transfer stood completed during Financial Year 2013-14 itself. The Ld. DR further contended that subsequent disputes regarding realization of consideration or delayed receipt of payment would not defer the chargeability of capital gains under the Act.

8. We have heard the rival contentions and perused the material available on record.

8.1 The undisputed facts emerging from record are that the sale deeds were executed and registered on 12.04.2013 before the Sub-Registrar in respect of the

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immovable properties in question. The documents executed between parties clearly transferred ownership rights in favour of purchasers.

8.2 The assessee has mainly contended that since full consideration was not received and possession remained with the assessee till F.Y. 2015-16, transfer was completed only in A.Y. 2016-17. However, in our considered view, once a registered sale deed transferring ownership rights has been executed, the transfer gets completed for the purposes of section 45 read with section 2(47) of the Act. Mere non-realization of a part of the sale consideration or subsequent disputes between the parties cannot defer the chargeability of capital gains to tax. Subsequent disputes regarding payment, dishonour of cheques, or delayed realization of consideration do not postpone taxability of capital gains. The arguments of the assessee that possession remained with him till April 2015 and therefore transfer was completed only in A.Y. 2016-17 is against the fact available on registration deed. There was no cancellation of registered sale deed nor no competent authority had annulled the transfer. The legal notice and subsequent correspondence relied upon by the assessee demonstrate delay in payment of balance consideration, however, these documents do not establish cancellation of registered sale deeds. Registration of a sale deed completes transfer for capital gains purposes. Non-receipt of consideration or delayed payment does not defer chargeability unless the transaction itself is cancelled or legally rescinded. Mere retention of possession, or subsequent disputes between parties do not postpone the incidence of capital gains taxation when the registered sale deed continues to remain valid and uncanceled. Accordingly, we find no infirmity in the findings of the Assessing Officer and the Ld. CIT(A) in holding that transfer had taken place during F.Y. 2013-14 relevant to A.Y. 2014-15.

8.3 We have given a thought to the alternative contention of the Ld. AR that if the capital gain has already been offered to tax in A.Y. 2016-17, suitable consequential relief should be granted to avoid double taxation. We agree with the contention of the Ld. AR. The Revenue cannot tax the same income twice. Accordingly, we direct the Assessing Officer to verify whether the impugned capital gain has been offered and assessed in A.Y.

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2016-17 and, if so, grant appropriate consequential relief in accordance with law so as to avoid double taxation by considering the taxes paid in the year 2016-17 while computing the total taxes payable on account of STCG for the year 2014-15. Accordingly, grounds nos. 1 to 3 raised by the assessee are dismissed, whereas ground no. 4 is allowed for statistical purposes.

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

Order pronounced in the open Court on 27.05.2026

Sd/-

(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Ahmedabad; Dated 27./05/2026

**btk

Sd/-

(DR. B.R.R. KUMAR)
VICE-PRESIDENT

आदेश की प्रतिलिपि □ ग्रेषित/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, Ahmedabad
6. गार्ड फाईल / Guard file.

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आदेशानुसार/ BY ORDER,

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