

AO can't make reference to Valuation Officer without declaration of lesser sale price by assessee

Summary – The High Court of Gujarat in a recent case of Manjulaben M. Unadkat, (the Assessee) held that where nothing was brought on record by Assessing Officer indicating that assessee had disclosed lesser sale price of property, reference under section 55A was not justified

Facts

- The assessee acquired a property on 1-4-1981. The value of that property at that time was taken at Rs. 3.91 lakhs. The assessee sold the said property in the year 1994 for Rs. 9.51 lakhs.
- The Assessing Officer referred the matter to the Valuation Officer, who determined the value of the property as on the date of sale at Rs. 15.52 lakhs and fair market value of the property as on 1-4-1981 was determined at Rs 1.62 lakhs. Accordingly, the capital gain was computed by the Assessing Officer.
- On appeal, the Commissioner (Appeals) upheld the order of the Assessing Officer.
- On second appeal, the Tribunal allowed the appeal of the assessee holding that the Assessing Officer before making a reference to the Valuation Officer had not brought anything on the record indicating that the assessee had disclosed lesser sale price and there was nothing on the record which could suggest to ignore the report of the registered valuer and to adopt the report of the Valuation Officer and, therefore, the Assessing Officer ought not to have made a reference to the DVO for determination of the fair market value of the property in dispute.
- On revenue's appeal to the High Court:

Held

- Tribunal has given cogent and convincing reasons in arriving at the conclusion. Therefore, the appeal is dismissed.