

**INCOME TAX APPELLATE TRIBUNAL, MUMBAI
BENCHES, MUMBAI**

BENCH: D

**BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
AND SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

ITA 7534/MUM/2025	
निर्धारणवर्ष/Assessment Year: 2018-19)	
MANOJ DEVSHICHHADVA 1100, MAHAVIR BUILDING, BHANDARKAR ROAD, MATUNGA (C.RLY) MUMBAI – 400 019	Vs.
	INCOME TAX OFFICER – WARD 20(2)(1) PIRAMAL CHAMBERS, DR.S.S. RAO ROAD, PAREL, MUMBAI – 400 012
अपीलार्थी Appellant	प्रत्यर्थी Respondent
Permanent Account Number of Assessee: AABPC5296M	
अपीलार्थीद्वारा/Appellant represented by:	Shri Ketan V. Vajani C.A.
प्रत्यर्थीद्वारा/Respondent represented by:	Shri Prasma Prakash Tewari SR.DR
सुनवाईकीतारीख/Date of conclusion of hearing:	02-Jul-2026
घोषणाकीतारीख/Date of pronouncement:	16-Jul-2026

आदेश / ORDER

PERSHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER:

This appeal is filed by the Assessee against the order of Ld. The Commissioner of Income Tax (Appeals), NFAC, dated 12-09-2025 for the Assessment Year 2018-19. The assessee has raised the following grounds of appeal:

2. The brief facts of the case are that the assessee is an individual who filed his return of income for the Assessment Year 2018-19 on 25.08.2018 declaring a total income of ₹12,47,170/-. During the course of assessment proceedings, the

Assessing Officer observed that the assessee had entered into two registered agreements dated 12.12.2017, which were registered on 13.12.2017, with respect to premises Nos. C-1 and C-50 having stamp duty values of ₹54,79,000/- and ₹83,91,000/- respectively. The Assessing Officer observed that the total stamp duty value of the two premises was ₹1,38,70,000/- and the Assessing Officer was of the view that the assessee had received these immovable properties without consideration during the relevant previous year. Accordingly, the Assessing Officer issued a show cause notice asking the assessee to explain why the stamp duty value should not be taxed under section 56(2)(x) of the Income-tax Act (“the Act”). The assessee contended that the new premises had not actually been received since only agreements had been executed and the redevelopment project was still in progress. The assessee was further explained that the agreements were executed in lieu of the assessee's tenancy rights in four existing shops and, therefore, the transaction was supported by valid consideration. The Assessing Officer, however, rejected these explanations by holding that registration of the agreements had given absolute rights to the assessee over the new premises and, therefore, the properties were received by the assessee during the relevant year. Accordingly, the Assessing Officer invoked section 56(2)(x) of the Act and added the entire stamp duty value of ₹1,38,70,000/- as “income from other sources” in the hands of the assessee.

3. In appeal, the Ld. CIT(Appeals) held that the permanent alternate accommodation received by the assessee under the redevelopment agreement denoted immovable property within the meaning of the Act and the expression "immovable property" could not be confined merely to the physical structure but also comprised the rights attached thereto. The CIT(Appeals) observed that the transaction, in substance, involved receipt of valuable immovable property by the assessee in exchange for extinguishment of tenancy rights. The CIT(Appeals) held that by executing and registering the redevelopment agreements, the assessee had acquired absolute ownership rights over the alternate premises which could not thereafter be altered without his consent. Therefore, the property was deemed to have been received during the relevant assessment year notwithstanding the fact that physical possession had not been handed over. The Ld. CIT(Appeals) also held that the Assessing Officer had rightly invoked section 56(2)(x) of the Act as the assessee had acquired valuable property without paying adequate monetary consideration and accordingly upheld the addition of ₹1,38,70,000/-.

4. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee.

5. We have heard the rival contentions and perused the material available on record. At the outset, we may observe that though several grounds have been

raised by the assessee in the memorandum of appeal, during the course of hearing the learned counsel for the assessee confined his arguments principally to the legality of the addition made under section 56(2)(x) of the Act. Accordingly, the present adjudication is confined to the grounds as argued before us and all findings recorded herein are in the context of the submissions advanced by the learned counsel during the course of hearing.

6. The short controversy before us is whether the Assessing Officer was justified in invoking the provisions of section 56(2)(x) of the Act merely because redevelopment agreements were executed and registered during the relevant previous year, notwithstanding the admitted position that the redevelopment project is yet to be completed and the assessee has not received possession of the permanent alternate accommodation till date.

7. For ready reference, the relevant portion of section 56(2)(x)(b) is reproduced below:

“56(2)(x) ... where any person receives, in any previous year, from any person or persons—

(b) any immovable property—

(A) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property.”

8. A plain reading of the above provision makes it clear that the charging provision is attracted only where an assessee "receives" an immovable property during the relevant previous year. Therefore, the existence of an actual receipt of immovable property is a fact which needs to be, ascertained before the deeming fiction contained in section 56(2)(x) of the Act can be invoked.

9. In the present case, there is no dispute that the assessee was occupying the existing premises as a tenant and, under the redevelopment scheme, agreed to surrender his tenancy rights in exchange for permanent alternate accommodation. Also, there is no dispute that the redevelopment project has not been completed till date. The learned counsel has placed on record the status of the project as reflected on the RERA portal, which shows that construction is still incomplete and no occupation certificate has been obtained. Consequently, admittedly, no possession of the alternate premises has been handed over to the assessee even as on the date of hearing before us.

10. The Assessing Officer proceeded on the footing that registration of the redevelopment agreements itself amounted to receipt of immovable property. In our considered opinion, such an approach ignores the essential requirement contained in section 56(2)(x) of the Act, viz, the actual receipt of the immovable property. Mere execution or registration of a redevelopment agreement creates only a contractual right to obtain a flat in future upon completion of

construction. It does not result in receipt of the immovable property itself, especially when the building is still under construction and the assessee has neither acquired possession nor the right to enjoy the property.

11. We also find merit in the contention of the learned counsel that the transaction is not one of receipt of property without consideration. The permanent alternate accommodation is being allotted in lieu of surrender of valuable tenancy rights. Thus, the redevelopment agreement is based upon reciprocal consideration, viz. the relinquishment of tenancy rights by the assessee in consideration of allotment of permanent alternate accommodation. Such a commercial exchange cannot be equated with a gratuitous transfer so as to attract section 56(2)(x) of the Act.

12. Our view is supported by the recent decision of the Coordinate Bench of the Mumbai Tribunal in Snehalata Heramb Dhayagude v. Jurisdictional AO, Ward 16(3)(1), ITA No.258/Mum/2026, order dated 21.04.2026, wherein, while interpreting section 56(2)(x) of the Act, the Tribunal held as under:

“A plain reading of section 56(2)(x) makes it abundantly clear that the sine qua non for its applicability is the ‘receipt’ of immovable property during the relevant previous year.”

13. The Tribunal further observed:

“The agreement itself clearly stipulates that the surrender of tenancy rights would take effect only upon the assessee being placed in possession of the new premises. Thus, till such possession is handed over, the tenancy rights cannot be said to have been extinguished or transferred.”

“One cannot ‘receive’ a flat that does not exist in a habitable state. A mere right to receive a property in the future contingent upon completion of construction does not equate to the ‘receipt of immovable property’ as contemplated under section 56(2)(x).”

“The provisions of section 56(2)(x) were prematurely and erroneously invoked. There was no receipt of immovable property during the previous year.”

14. The facts before us are identical. In fact, the case of the assessee stands on a even stronger footing because admittedly the project has not been completed even till date and possession continues to remain with the developer. Similar view has been taken by the Mumbai Bench of the Tribunal in **Anil Dattaram Pitale v. ITO [2025] 173 taxmann.com 51 (Mumbai-Trib.)**, wherein it was held:

“It is a case of extinguishment of old flat and in lieu thereof, the assessee has got new flat as per the agreement entered with the developer for redevelopment of the society. Thus it is not a case of receipt of immovable property for inadequate consideration that would fall within the purview of the provisions of section 56(2)(x).”

“At the most, this transaction may attract the provisions relating to capital gains.”

15. The aforesaid principle has again been reiterated by another Coordinate Bench in **Amar Narendra Joshi v. ITO [2026] 186 taxmann.com 318 (Mumbai-Trib.)**, wherein, after following the decision in Anil Dattaram Pitale (supra), it was held:

“The assessee received a new residential flat in lieu of surrender of old flat. Therefore, the case of the assessee is squarely covered by the decision in Anil Dattaram Pitale... it was not a case of receipt of immovable property for inadequate consideration that would fall within the purview of section 56(2)(x). Hence, the Assessing Officer was directed to delete the entire addition.”

16. The ratio laid down in the aforesaid decisions squarely applies to the facts before us. The expression "receives" occurring in section 56(2)(x) cannot be interpreted in an artificial or notional manner so as to tax an assessee merely because a redevelopment agreement has been registered. Unless the assessee actually receives the immovable property, the charging provision cannot be invoked. A deeming provision, being in the nature of a charging fiction, has to be construed strictly and cannot be extended beyond the language employed by the legislature.

17. Viewed from another angle also, the permanent alternate accommodation is being allotted in exchange for surrender of tenancy rights. Therefore, the transaction is supported by valuable consideration and cannot, in our view, be

regarded as receipt of immovable property without consideration. Consequently, one of the essential ingredients for invoking section 56(2)(x) also remains absent.

18. In view of the foregoing discussion, and respectfully following the decisions of the Coordinate Benches in *Snehalata Heramb Dhayagude v. Jurisdictional AO* (ITA No.258/Mum/2026 dated 21.04.2026), *Anil Dattaram Pitale v. ITO* [2025] 173 taxmann.com 51 (Mumbai-Trib.) and *Amar Narendra Joshi v. ITO* [2026] 186 taxmann.com 318 (Mumbai-Trib.), we hold that the Assessing Officer was not justified in invoking the provisions of section 56(2)(x) of the Act.

19. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on **16-Jul-2026**

Sd/-
VIKRAM SINGH YADAV
ACCOUNTANT MEMBER

Sd/-
SIDDHARTHA NAUTIYAL
JUDICIAL MEMBER

Mumbai
Dated: **16-Jul-2026**
Sharath, PS

Copy to:

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