

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'I' BENCH  
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No.6175/Mum/2024  
(Assessment Year :2019-20)**

Shivkumar T Iyer 102, DELPHI Raheja Gardens LBS Marg Thane-400 601	Vs.	Commissioner of Appeals-56 Mumbai
<b>PAN/GIR No.AATP18584L</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Ms. Meeta Mehta
Revenue by	Shri Krishna Kumar, Sr.DR
<b>Date of Hearing</b>	<b>11/02/2025</b>
<b>Date of Pronouncement</b>	<b>18/02/2025</b>

**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

The aforesaid appeal has been filed by the assessee against order dated 27/09/2024 passed by CIT(A)-56, Mumbai for the quantum of assessment passed u/s.143(3) r.w.s. 144C.

2. At the outset, in the grounds of appeal the assessee has challenged the *exparte* order passed by Id. CIT(A) on merits has raised the following grounds:-

*“1. The Appellant prays we did not get a final opportunity to be heard or to present the facts and documents for the case. This leads to injustice and unjust additions of income and deprivation of constitutional rights.*

*2. The Appellant prays that the addition of interest receivable of Rs. 14,40,000 be deleted as the same was not received and the Assessee accounts for income on receipt basis.*

*3. The Appellant prays that 1% brokerage expenditure being standard selling expenses on sale of 2 house properties amounting to Rs. 6,40,000 and Rs. 64,000 respectively be allowed.*

*4. The Appellant prays that all the payments made to the Builder amounting to Rs. 3,53,48,964/- be allowed as cost of acquisition for purchase of property 1 and Rs. 19,59,340 for Property 2, which includes agreement value service tax MVat and other charges paid to Builder. The Appellant prays that the indexed cost of this amount be considered as indexed cost.*

*5. The Appellant prays that the entire amount invested in terms of exemption claimed under section 54 in respect of the investment in another residential house property amounting to Rs.1,10,59,771/- be allowed, considering the declaration submitted that the name of his wife is added for convenience sake and she is not contributing monetary amount for this investment. Further the said Flat has been sold in FY 22-23 and the sale proceeds have been taxed solely in the name of the Appellant.*

*5. The Appellant prays that the brought forward Long Term Capita Loss amounting to Rs. 18,34,799/- pertaining to AY 2017-18 and AY 2014-15 which has been duly disclosed in Return of Income for the said assessment years be allowed for set off against the Long Term Capital Gain of AY 2019-20.*

*3. At the outset Id. Counsel submitted that various notices sent through e-mail could not be received by the assessee and only one notice was served which assessee had filed an*

adjournment application which was not taken into cognizance and accordingly, the ld. CIT(A) without deciding the issue on merits has dismissed the appeal *ex parte*. Therefore, in the interest of justice we treat that the matter should be restored back to the file of the ld. CIT(A).

4. The ld. DR did not have any objection if the matter is restored back to the file of the ld. CIT(A).

5. In view of the aforesaid fact that the ld. CIT(A) has passed *ex parte* order without deciding the issue on merits therefore, in the interest of justice, all the grounds which have been raised before us are remitted back to the file of the ld. CIT(A) to decide afresh and in accordance with the law after giving due opportunity of hearing to the assessee. The assessee is also directed to co-operate in the proceedings and substantiate his case.

**6. In the result, appeal of the assessee is allowed for statistical purposes.**

Order pronounced on 18<sup>th</sup> February, 2025.

**Sd/-**

**(PADMAVATHY S)**

**ACCOUNTANT MEMBER**

Mumbai; Dated 18/02/2025  
KARUNA, sr.ps

**Sd/-**

**(AMIT SHUKLA)**

**JUDICIAL MEMBER**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**