

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "D", MUMBAI

**BEFORESHRI VKRAM SINGH YADAV, ACCOUNTANT MEMBER AND  
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**ITA No.529/Mum/2025 - A.Y. 2015-16**

**ITA No.530/Mum/2025 - A.Y. 2014-15**

<b>Mohan Thakurdas Gurnani</b> Flat No.2101, Moraj Casa Grande, Plot Nop.57, Sector 17 Koperkhairne, Navi Mumbai-400 709 <b>PAN: AACPG8827D</b>	<b>vs</b>	<b>ITO, central Circle 5(2), Mumbai</b> Room No.427, 4 <sup>th</sup> Floor, Kautilya Bhavan, Bandra Kurla Complex, Bandra (East), Mumbai-400 057
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by : None  
Respondent by : Shri Annavaram Kosuri (SR DR)  
  
Date of hearing : 02/06/2025  
Date of pronouncement : 03/06/2025

**ORDER**

**Per Anikesh Banerjee (JM):**

Both the appeals of the assessee were filed against the orders of the Learned Commissioner of Income-tax (Appeals)-53, Mumbai [in short, 'Ld.CIT(A)] passed under section 250 of the Income Tax Act, 1961 (in short, 'the Act') for the Assessment years 2014-15 ad 2015-16, date of orders 28/11/2024. The impugned orders were emanated from the orders of the Ld. ACIT, CC-5(2), Mumbai (for

brevity, 'Ld.AO') passed under section 271(1)(c) of the Act, date of order 02/03/2022, for A.Y. 2014-15 and dated 03/03/2022 for A.Y. 2015-16.

2. When the appeals were called for hearing, there was no representation on behalf of the assessee, nor was any adjournment petition filed. Upon reviewing the record, it is noted that the Ld. AR had appeared at the previous hearing and had accepted the date fixed for the present hearing. However, no one appeared on behalf of the assessee today. Considering the merits and quantum involved in the case, we have decided to proceed with the hearing ex parte with respect to the assessee, after hearing the Ld. DR.

3. Both appeals involve similar facts and a common issue. Hence, they are being disposed of by this common order, treating **ITA No. 529/Mum/2025** for AY 2015–16 as the lead case.

4. The assessment for A.Y. 2015–16 was completed under section 143(3) read with section 153A of the Act. Additions were made on account of bogus long-term capital gains amounting to Rs.31,04,85,020/- and income from house property amounting to Rs.5,62,807/-. These additions were challenged before the Ld. CIT(A), who dismissed the assessee's appeal. The matter was then brought before the Tribunal. On examining the order of the Co-ordinate Bench of the ITAT, Mumbai in ITA No. 713/Mum/2021 for A.Y. 2015–16, dated 17/11/2023, we observe that both issues—long-term capital gain and house property income—were adjudicated on merits. With respect to the exemption claimed under section 10(38) of the Act regarding long-term capital gains (LTCG), the Co-ordinate Bench

set aside the issue to the file of the Ld. AO for fresh adjudication, as discussed in paragraph 62 of the said order. Similarly, the issue related to the annual rental value was also examined, and the Co-ordinate Bench directed that a 30% deduction under section 24 of the Act be allowed, as elaborated in paragraph 57 of the same order. Therefore, both issues were remanded to the Ld. AO for fresh consideration.

5. We note that the Ld. AO had initiated penalty proceedings and levied a penalty on the alleged concealment amounting to Rs.7,05,47,203/-. The assessee contended that since the quantum appeal was pending before the ITAT, the penalty should be kept in abeyance until its disposal. However, the Ld. CIT(A) dismissed the assessee's appeal and upheld the penalty order.

Since the quantum appeal has now been adjudicated and the matter has been remanded to the Ld. AO for fresh consideration, we also remit the penalty matter back to the Ld. AO for re-computation of the penalty in light of the merits of the case.

Accordingly, **ITA No. 529/Mum/2025** is allowed for statistical purposes.

#### **ITA No. 530/Mum/2025 (A.Y. 2014–15)**

6. The facts and circumstances in this appeal are identical to those in the quantum appeal before the ITAT in ITA No. 709/Mum/2021. All material aspects remain the same as in A.Y. 2015–16. Therefore, the decision rendered in ITA No. 529/Mum/2025 is equally applicable to the present appeal mutatis mutandis. Consequently, ITA No. 530/Mum/2025 is also remanded to the file of the Ld. AO

for re-computation of the penalty based on the merits of the case and is allowed for statistical purposes.

7. In the result, both the appeals in **ITA Nos 529 & 530/Mum/2025** are allowed for statistical purpose.

Order pronounced in the open court on 3<sup>rd</sup> day of June 2025.

Sd/-

(VIKRAM SINGH YADAV)  
ACCOUNTANT MEMBER  
Mumbai, दिनांक/Dated: 03/06/2025  
Pavanan

sd/-

(ANIKESH BANERJEE)  
JUDICIAL MEMBER

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,  
Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

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