

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad

श्री विजय पाल राव, उपाध्यक्ष एवं श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA No.1768/Hyd/2025**
(निर्धारण वर्ष / Assessment Year: 2023-24)

Shri Mohsin Himmati Hyderabad PAN:ABNPH6353F	Vs.	ADIT (INT. TAXN)-1 Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by: Adv. R. Mohan Kumar		
राजस्व द्वारा / Revenue by: Smt.U Mini Chandran, CIT(DR)		
सुनवाई की तारीख / Date of hearing: 05/01/2026		
घोषणा की तारीख / Pronouncement: 09/01/2026		

आदेश/ORDER

Per Madhusudan Sawdia, A.M.:

This appeal is filed by Shri Mohsin Himmati (“the assessee”), feeling aggrieved by the assessment order passed by the Learned Assessing Officer, Hyderabad (“ Ld. A.O”) under section 143(3) r.w.s. 144C(13) of the Income Tax Act, 1961 (“the Act”) for the A.Y 2023-24, dated 12.09.2025.

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

1. In the facts and circumstances of the case, the order of the CIT(A) is not sustainable on facts or in law.
2. In the facts and circumstances of the case, the respected DRP ought to have considered the objections raised by the assessee particularly relating to the second Remand Report submitted by the Ld. AO.
3. In the facts and circumstances of the case, the respected DRP ought to have ignored the second Remand Report and consider the fact that the first Remand Report did not contain any adverse findings against the assessee,
4. In the facts and circumstances of the case, the respected DRP ought to have considered that the father of the assessee had enough sources for making the payment to the vendor.
5. In the facts and circumstances of the case, the respected DRP ought not to have ignored the fact that there was sufficient balance in the bank account as on date of making the payment to the vendor.
6. In the facts and circumstances of the case, the respected DRP ought not to have ignored the fact that the payments to the vendor were made through banking channels.
7. In the facts and circumstances of the case, the Ld. DRP is not correct in directing the AO to allow only Rs. 25,00,000/- as cost of acquisition as against Rs. 1,54,40,000/- which was clearly mentioned in the sale deed and accepted by the vendor.
8. In the facts and circumstances of the case, the respected DRP ought to have noticed that the Long Term Capital Gains computed by the AO is not correct.
9. The appellant may be permitted to add, delete, amend any ground with leave of the Hon'ble Tribunal.

3. The brief facts of the case are that the assessee is a non-resident individual who filed his return of income for the AY 2023-24 on 28.07.2023 under section 139(1) of the Income Tax Act, 1961 (“the Act”), declaring a total income of Rs.3,37,79,244/-,

which included long-term capital gain of Rs.43,22,882/-. During the year under consideration, the assessee had sold an immovable property for a sale consideration of Rs.2,31,12,000/-. During the course of assessment proceedings, the Ld. AO observed that the said immovable property was purchased by the assessee on 31.05.2017 for a consideration of Rs.1,54,40,000/-. The purchase consideration of the said property was paid by the father of the assessee, Shri Ali Hemati, in three instalments of Rs.25,00,000/-, Rs.77,20,000/- and Rs.52,20,000/-. The assessee claimed that the said payments were made by his father on behalf of the assessee as gifts. The Ld. AO was not satisfied with the explanation furnished regarding the source of payments made by the father of the assessee and accordingly did not allow the cost of acquisition while computing long-term capital gains. The entire sale consideration of Rs.2,31,12,000/- was treated as long-term capital gain by the Ld. AO in the hands of the assessee. Accordingly, a draft assessment order under section 144C(1) of the Act dated 20.02.2025 was passed by the Ld. AO determining the total income of the assessee at Rs.5,25,78,361/-.

4. Aggrieved with the order of the Ld. AO, the assessee filed objections before the Learned Dispute Resolution Panel ("Ld. DRP"). The Ld. DRP, while partly accepting the objections, allowed Rs.25,00,000/- as cost of acquisition and rejected the balance payments of Rs.77,20,000/- and Rs.52,20,000/- on the ground that the opening balance in the bank account of the father of the assessee as on 01.09.2014 was not explained due to non-furnishing of bank statements for the period from 09.06.2013 to

01.09.2014. Pursuant thereto, the Ld. AO passed the final assessment order under section 143(3) read with section 144C(13) of the Act on 12.09.2025 assessing the total income of the assessee at Rs.4,95,36,082/-.

5. Aggrieved by the final assessment order of the Ld. AO, the assessee is in appeal before the Tribunal. At the outset, the Learned Authorized Representative ("Ld. AR") submitted that the solitary issue arising in the present appeal is the denial of deduction of Rs.77,20,000/- and Rs.52,20,000/- as part of the cost of acquisition of the immovable property sold by the assessee. In this regard, the Ld. AR invited our attention to the bank statement of the father of the assessee for the period from 01.09.2014 to 16.09.2014 placed at page no. 172 of the paper book and submitted that as on 01.09.2014, the father of the assessee had an opening balance of Rs.18,74,82,197.18. Out of the said balance, payments of Rs.77,20,000/- on 09.09.2014 and Rs.52,20,000/- on 13.09.2014 were made towards the purchase of the impugned property. He further submitted that the Ld. DRP, in para no. 5.5.4 of its directions, denied the said payments solely for the reason that bank statements for the period from 09.06.2013 to 01.09.2014 were not furnished. To address this objection, the assessee has filed the complete bank statements for the said period as additional evidence before the Tribunal along with a petition for admission of the additional evidence, which conclusively explain the source of funds (page nos. 12 to 27 of the additional evidence paper book). The Ld. AR also invited our attention to the purchase deed of the immovable property placed

at page nos. 124 to 149 of the paper book to demonstrate that the impugned payments were made directly to the seller towards purchase consideration. Finally, the Ld. AR submitted that the father of the assessee was having sufficient balance in his bank account and the payments towards the purchase cost of the immovable property has been made out of the said available bank balance. Accordingly, the Ld. AR prayed before the Bench to allow the payment of Rs.77,20,000/- and Rs.52,20,000/- as deduction from the sales consideration of the immovable property for the purpose of calculation of capital gain.

6. Per contra, the Learned Departmental Representative ("Ld. DR") relied on the orders of the lower authorities. He submitted that the assessee failed to substantiate the source of payments of Rs.77,20,000/- and Rs.52,20,000/- before the Ld. AO as well as before the Ld. DRP. She further objected to the admission of additional evidence, contending that the bank statements now filed were not produced before the lower authorities and that no sufficient cause was shown for such failure.

7. We have considered the rival submissions and carefully examined the material placed on record. At the outset, we find that the additional evidence filed by the assessee consists of bank statements of the father of the assessee for the period from 09.06.2013 to 01.09.2014. The only reason for disallowance by the Ld. DRP, as recorded in para no. 5.5.4 of its directions, was the absence of bank statements for this very period, resulting in non-explanation of the opening balance as on 01.09.2014. Thus,

the additional evidence goes to the root of the matter and is crucial for adjudicating the issue in controversy. Accordingly, in the interest of substantial justice and in exercise of powers under Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963, we admit the additional evidence filed by the assessee.

8. On merits, it is an admitted position that the payments of Rs.77,20,000/- and Rs.52,20,000/- were made by the father of the assessee towards the purchase of the immovable property. On perusal of the additional bank statements, we find that the opening balance available in the bank account of the father of the assessee as on 01.09.2014 stands duly explained and substantiated. The impugned payments have been made out of the said explained balance. We have also gone through the copy of the purchase deed of the immovable property placed at page nos. 124 to 149 of the paper book and on perusal of the same, we find that the payments of Rs.77,20,000/- and Rs.52,20,000/- were made directly to the seller towards purchase consideration of the very same property. Once the source of funds and the utilization thereof for acquisition of the property are duly proved, the said payments cannot be denied as cost of acquisition while computing long-term capital gains. Further, the payments were made during the financial year relevant to Assessment Year 2015-16 and, therefore, if at all any adverse inference was to be drawn, the same could have been examined only in that year and not in the year of sale of the property. In view of the present facts and circumstances of the case, we hold that the assessee is entitled to deduction of Rs.77,20,000/- and Rs.52,20,000/- as part of the

cost of acquisition. Accordingly, we direct the Ld. AO to allow the same and recompute the long-term capital gains.

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

Order pronounced in the Open Court on 9th January 2026.

Sd/-

Sd/-

(VIJAY PAL RAO) VICE PRESIDENT	(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER
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Hyderabad dated 9th January 2026.

Vinodan/sps

Copy to:

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3	Pr. CIT – Hyderabad/Director of Income Tax (Int. Taxn) Hyderabad
4	DRP-1 Kendriya Sadan, 4 th Floor, C Wingh, Bengaluru 560034
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order