

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

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
AND
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 7020/Mum/2025
Assessment Year : 2016-17

Rajani Shivaji Ghadge, 505, Om Sumit, Dr. B.A. Road, Ganesh Gully, Lalbaug, Mumbai-400012. PAN : AOFPG1701D	vs.	Income Tax Officer, Ward-22(3)(6), Piramal Chamber, Lalbaug, Mumbai-400012.
(Appellant)		(Respondent)

For Assessee :	NONE
For Revenue :	Shri Annavarani Kosuri, Sr.DR

Date of Hearing :	08-01-2026
Date of Pronouncement :	12-01-2026

ORDER

PER VIKRAM SINGH YADAV, A.M :

This is an appeal filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’], dated 03-09-2025, pertaining to Assessment Year (AY) 2016-17.

2. None appeared on behalf of the assessee nor was any adjournment application filed. Considering the same and the fact that the appeal was filed way back in October 2025, it was decided that no useful purpose

would be served in adjourning the matter any further and to decide the matter based on material available on record.

3. Briefly stated, facts of the case are that assessment in this case was completed u/s. 147 r.w.s. 144 r.w.s. 144B of the Income Tax Act, 1961 ('the Act'), wherein the AO brought to tax an amount of Rs. 51,48,592/- on account of sale of immoveable property as Short Term Capital Gain, further an amount of Rs. 1,762/- brought to tax on account of interest received from Union Bank of India and assessed income was determined at Rs. 51,50,354/-. The assessee thereafter carried the matter in appeal before the Ld.CIT(A) and also moved an application, seeking admission of additional evidences. The additional evidences were admitted and remand report from the AO was also called and thereafter, the Ld.CIT(A) has restricted the addition from Rs. 51,48,592/- to Rs. 10 lakhs. The relevant findings of the Ld.CIT(A) reads as under:

“xiii. The appellant claims that, the appellant held the residential property from the year 2010 (the date on which the building was constructed) to 17.02.2016. From the perusal of the above, the house property sold is a Long-Term Capital Asset as per the provisions of the Act. Your appellant was entitled to Rs. 10 lakhs being her share and she had received only that amount and not Rs.50 lakhs. The copy of the bank statements of the appellant and four sisters each receiving Rs.10 lakhs is enclosed and the appellant assessee along with its submission has provided the sale deed of the said ancestral property, bank statements, purchase deed of the property etc which have been considered by this Appellate authority on test check basis. After considering the submissions of the appellant, the evidences provided and considering the remand report submitted by the Assessing officer, the contentions of the appellant are found to be correct that, the appellant assessee had only received an amount of Rs. 10,00,000/- instead of Rs. 51,48,592/-, Thus, the grounds no.-1 & 2 are PARTLY ALLOWED.”

4. Against the said order and findings of the Ld.CIT(A), the assessee is in appeal before us.

5. Regarding Ground No. 1 raised by the assessee, wherein the assessee has challenged the action of the Ld.CIT(A) in treating the house property sold as a Short Term Capital Asset instead of Long Term Capital Asset, in this regard, it is noted from the records that the assessee has sold a property bearing Flat No. 803, C Wing, City Trust Chsl, N.M. Joshi Marg, Byculla, Mumbai-400011 on 17-02-2016 for a consideration of Rs. 50 lakhs and a copy of the sale agreement was also submitted wherein at page 9 of the sale agreement which contains the schedule of the premises, it was mentioned that the building was constructed in the year 2010. It was submitted to Ld. CIT(A) that the building was completed in the year 2010 and Municipal Corporation, Greater Mumbai has also issued Occupation Certificate on 16-06-2010 and the flat was sold on 17-02-2016. However, the Ld. CIT(A) has failed to record any specific finding in this regard. Given that these facts are clearly emerging from the material available on record, we find that what has been sold by the assessee was a Long Term Capital Asset and, therefore, the taxability of sale consideration of Rs 10 lacs, being the assessee's share of sale consideration, has to be determined in terms of transfer of Long Term Capital Asset instead of Short Term Capital Asset. The AO is directed accordingly and Ground No. 1 is decided in favour of the assessee.

6. Regarding Ground No. 2, wherein the assessee has challenged the action of the Ld.CIT(A) in denying the claim of exemption u/s. 54 of the Act which has been raised for the first time before the Ld.CIT(A), we find that the AO in his remand report has given a clear finding that the assessee has purchased an immoveable property for the amount of Rs. 15 lakhs in May, 2006 and in view thereof, we find that being a legal claim and relevant facts already stood verified by the AO during the remand proceedings, there is no legal and justifiable basis for the Ld.CIT(A) to deny

the claim to the assessee u/s. 54 of the Act. The AO is directed to allow the claim u/s 54 so made by the assessee amounting to Rs 10 lacs and Ground No. 2 is decided in favour of the assessee.

7. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 12-01-2026

Sd/-
[RAHUL CHAUDHARY]
JUDICIAL MEMBER

Mumbai,
Dated: 12-01-2026

TNMM

Sd/-
[VIKRAM SINGH YADAV]
ACCOUNTANT MEMBER

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai