

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
Ms. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.234/PUN/2024
Assessment year : 2017-18**

Mr. Popatrao Dashrathrao Suryawanshi S.No.38, Tingre Nagar, Havaladar Mala, Vishrantwadi, Pune – 411015	Vs.	ITO, Ward 7(4), Pune
PAN: ADHPS2643F		
(Appellant)		(Respondent)

Assessee by : Shri Suhas Bora
Department by : Shri Manish Mehta, Addl.CIT
Date of hearing : 19-01-2026
Date of pronouncement : 21-01-2026

ORDER

PER R.K. PANDA, V.P:

This appeal filed by the assessee is directed against the order dated 08.12.2023 of the Ld. CIT(A) / NFAC, Delhi relating to assessment year 2017-18.

2. Facts of the case, in brief, are that the assessee is an individual and filed his return of income on 31.10.2017 declaring total income of Rs.3,86,340/-. The case was selected under CASS and a notice u/s 143(2) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') was issued and served on the assessee. Subsequently the Assessing Officer issued notices u/s 142(1) of the Act which were also duly served on the assessee.

3. During the course of assessment proceedings the Assessing Officer noted that the assessee had entered into a joint venture agreement with M/s. Nandan

Buildcon Pvt Ltd vide registered joint venture agreement dated 20.01.2011. As per the agreement M/s. Nandan Buildcon Pvt Ltd has agreed for the construction of residential houses on the land of the assessee and the assessee in lieu of this JV agreement will get 34% of construction area. The terms and conditions of the agreement clearly show that the assessee has transferred the land to the developers for development purpose and the joint venture agreement is also a registered agreement. He noted that the assessee has converted his agricultural land as stock in trade and is paying tax on the capital gain and tax on business income as per the provisions of section 45(2) of the Act. This fact, according to the Assessing Officer, clearly shows that the assessee has transferred his capital asset into stock in trade in view of the Joint Venture agreement dated 20.01.2011. He, therefore, was of the view that the land is transferred in the financial year 2010-11 itself. However, the assessee has claimed deduction of Rs.289,64,823/- u/s 54B of the Act.

4. The Assessing Officer noted that the assessee has claimed the date of transfer of original asset as 01.04.2016. However, no explanation was submitted regarding how date of transfer of asset is taken as 01.04.2016 when the land was transferred as per the JV agreement dated 20.01.2011 and subsequently the land is converted into stock in trade on this date. From the various explanations furnished by the assessee he noted that the assessee during the assessment year 2014-15 has already claimed deduction u/s 54B of the Act at Rs.1,05,92,146/- on the capital gains derived from the transfer of the same land. Further, the assessee has claimed

exemption u/s 54B on account of purchase of agricultural land in relevant assessment year whereas on verification of the sale deed of agricultural land it is found that the sale deed is registered on 23.03.2017. Thus, the assessee has purchased the agricultural land beyond the period of two years from the date of transfer of original asset as mandated by the provisions of section 54B of the Act. He, therefore, issued a show cause notice asking the assessee to explain as to why the deduction claimed u/s 54B of the Act should not be rejected. Rejecting the various explanations given by the assessee the Assessing Officer disallowed the claim of deduction u/s 54B of the Act of Rs.2,89,64,823/- made by the assessee by observing as under:

08. The reply of the assessee is examined from the facts of the case. On perusal of reply it is found that assessee has admitted that the land was converted in stock in trade during the F. Y. 2010-11. Assessee relied on CBDT's circular no. 791 dated 02.06.2000 in support of his claim. It is seen that the above circular is applicable for deduction u/s 54E, 54EA, 54EB and 54 EC. The CBDT has clarified the date of transfer in case of investment made u/s 54E, 54EA, 54EB, and 54EC. As per the section, investment in specified asset has to be made within 6 months. The circular is not applicable for other provisions of Income Tax Act.

09. The assessee also relied on decision of Hon'ble ITAT, Pune bench in the case of Mahesh Namichandra Ganeshwade V/s ITO(2012). The above decision is also pertains to deduction u/s 54EC and not applicable in this case.

10. In view of the above discussion as well as examination of submission, it is evident that the assessee has entered into a JV agreement with Nandan Buildcon Pvt. Ltd. for the development of land. The JV is registered on 20.01.2011. The assessee has also converted the capital asset into stock in trade in view of the JV agreement. The assessee has filed the returns and paid taxes as per the provisions of Section 45(2) of the IT Act. The assessee has claimed date of transfer as 01.04.2016, however, has not furnished any documentary evidence or explanation of taking this date as date of transfer. The date of transfer as per the JV agreement and as per the transfer of capital asset in stock in trade is 20.01.2011. The assessee has purchased the agricultural land on 23.03.2017. The fact shows that the assessee has not purchased the land within two years from the date of transfer of original asset which is stipulated time limit for availing exemption u/s 54B.

11. It is also evident from the record that assessee has already availed deduction u/s 54B of Rs. 01,05,92,146/- in the AY 2014-15, Rs. 3,60,35,153 in A.Y. 2015-16 and Rs. 1,22,22,000// in A.Y. 2016-17. As per the provision of Section 54B of IT Act the assessee has to purchase any other land for being use for agricultural purpose within two years after the date of transfer. The provisions clearly stipulate that the investment is to be made in agricultural land within two years. Assessee can make investment in anyone agricultural land and not into multiple agricultural lands. However, the assessee is claiming deduction u/s 54B of IT Act in multiple agricultural lands on the capital gain derived from one asset. It is not a case that assessee claiming deduction u/s 54B on capital gains derived from transfer of multiple assets but assessee claims deduction u/s 54B multiple times on the receipt derives from transfer as one asset.

12. The above facts clearly established that the assessee has not purchased the agricultural land within the two years from the date of transfer of original asset and has also claimed deduction u/s 54B on purchase of multiple agricultural lands. Thus, the conditions stipulated in the provisions of Section 54B are not fulfilled and hence, not eligible for deduction u/s 54B. Accordingly, deduction claimed of Rs. 2,89,64,823 /- u/s 54B is disallowed and added to the total income.

5. Before the Ld. CIT(A) / NFAC the assessee, apart from challenging the denial of deduction u/s 54B of the Act, made an alternate claim that the assessee would like to file a revised computation for the year under consideration for withdrawing the capital gain income and claim deduction u/s 54F of the Act. Relying on various decisions including the decision of Hon'ble Bombay High Court in the case of CIT vs. Pruthvi Brokers & Shareholders reported in 349 ITR 336 (Bomb) it was argued that the assessee be allowed to revise its claim.

6. However, the Ld. CIT(A) / NFAC was not satisfied with the arguments advanced by the assessee and upheld the action of the Assessing Officer in rejecting the claim of deduction u/s 54B of the Act by observing as under:

“5.3 The addition made by the Assessing Officer and the submissions of the appellant have been perused. It is seen from the assessment order that the appellant transferred capital asset during the FY 2010-11 and the appellant had

not purchased the land within two years from the date of transfer of original assets as per time limit for availing exemption u/s 54B. As the appellant failed to purchase the property within two years of transfer, the claim of the appellant is rejected. Further, the appellant in his submissions stated that the offering capital gain on transfer /conversion of land in the AY 2017-18 (other than AY 2011-12) is incorrect. The appellant also stated that in the return of income under section 139(1), he has wrongly presented the capital gain after claiming the deduction under section 54B which was an inadvertent error. The appellant also submitted that he would like to file revised computation for the year under consideration for withdrawing capital gain income and the claim of deduction u/s.54F. Thus, it is clear that it is an afterthought of the appellant to avoid capital gains. Further, withdrawal of capital gains and claim u/s.54B of the Act is not permitted, since the appellant has not offered capital gains in the year of transfer of land i.e. FY 2010-11 relevant to AY 2011-12. In view of the above, the contention of the appellant is rejected and the action of the AO is upheld. Hence, grounds raised in this regard are dismissed.

6. In the result, the appeal is dismissed.”

7. Aggrieved with such order of the Ld. CIT(A) / NFAC, the assessee is in appeal before the Tribunal by raising the following grounds:

On facts and circumstances and in law,

- 1. The learned Commissioner of Income Tax (Appeals), NFAC and the Assessing Officer have erred in confirming/making the aggregate addition and disallowances of Rs.2,89,64,823/-.*
- 2. The learned AO and the CIT (Appeals) have erred in making and confirming the disallowance of deduction of Rs.2,89,64,823/- claimed by assessee under section 54B of the Income Tax Act 1961 against the capital gain on transfer of land.*
- 3. On facts and circumstances of the case and in law, the learned AO and the CIT (Appeals) have erred in considering year of transfer of capital asset and charging it to tax in the Assessment Year 2017-18.*
- 4. The learned CIT (Appeals) has erred in charging capital gain to tax in the year under consideration despite there is no transfer and no taxable capital gain u/s 45(2).*
- 5. The learned CIT (A) has erred in not considering and entertaining revised computation of income and additional/new claim made/submitted by assessee during appellate proceedings. To that extent, the appellate order is bad and needs to be set aside.*

6. *The learned CIT Appeals has erred in dismissing the assessee's appeal without affording adequate opportunity of being heard and without considering assessee's submissions.*
7. *The Assessee prays before your honour to afford and allow the Assessee an opportunity of being heard on merits of the case and to allow any other relief under income tax law.*

The appellant craves leave to add, revise, amend or alter any of the grounds of appeal.

8. The Ld. Counsel for the assessee at the outset submitted that the assessee has entered into a Joint Venture agreement on 20.01.2011 which was registered and the possession was delivered. Therefore, the transfer as prescribed u/s 2(47)(iv) / (v) of the Act has taken place. Referring to the decision of Hon'ble Bombay High Court in the case of Chaturbhuj Dwarkadas Kapadia vs. CIT reported in 260 ITR 491 (Bom), he submitted that handing over possession pursuant to development agreement constitutes transfer.

9. The Ld. Counsel for the assessee referring to the assessment order for assessment year 2014-15, copy of which is placed at pages 70 to 88 of the paper book drew the attention of the Bench to page 73 of the paper book i.e. para 3.1 of the assessment order and drew the attention of the Bench to the reasons recorded for issue of notice u/s 148 of the Act where the Assessing Officer has mentioned as under:

3.1 Complete description of issues involved (issue wise)

The following is noticed from the order u/s 148 of the I.T. Act dated 20-07-2022;

"During the assessment proceedings for the assessment year 2016-17 and 2017-18, it is revealed that the assessee has wrongly claimed deduction u/s 54B/54F and accordingly assessment was completed.

The facts of the case are that the assessee has entered into a joint venture with Nandan Buildcon Pvt. Ltd. vide registered joint venture agreement dated 20.01.2011. The terms and conditions of the agreement clearly show that the assessee has transferred the land to the developers for development purpose and the Joint Venture agreement is also a registered agreement. The assessee has shown full value of consideration of Rs.1,14,06,128/-. He deducted an amount of Rs.8,13,982/- as cost of acquisition and the remaining amount of Rs.1,05,92,146/- has claimed as exemption u/s 54B of the Act. Accordingly, shown LTCG at Rs.Nil on the capital gains derived from the transfer of same land. It is also seen that assessee has claimed the exemption u/s 54B on account of purchase of agricultural land in relevant year, However the capital gain on the transfer of asset is arisen on date of transfer of assets as on 20/01/2011 vide JV Agreement. Thus, the assessee has purchased the agricultural land beyond the period of two years from the date of transfer of original asset has mandated by the provisions of Section 54B of the IT Act. In view of the above facts, the assessee is not entitled for the claim of deduction/ exemption u/s 54B as the investment is made beyond the period of two years from the date of transfer of original asset."

10. Similarly, referring to the assessment order for assessment year 2015-16, copy of which is placed at pages 89 to 100 of the paper book, the Ld. Counsel for the assessee drew the attention of the Bench to para 3.1 of the order where the Assessing Officer has mentioned as under:

3.1 Complete description of issues involved (issue wise)

The following is noticed from the order u/s 148 of the I.T. Act dated 20-07-2022;

The information has been taken from the Handing Over Note of the predecessor, which was taken on the basis of recurring issue revealed from the Assessment Order for AY 2016-17 & 2017-18 vide dated 31.12.2018 & 20.03.2019 respectively. In this case, the information available on record reproduced as under:-

"The facts of the case are that the assessee has entered into a joint venture with Nandan Buildcon Pvt. Ltd. vide registered joint venture agreement dated 20.01.2011. The terms and conditions of the agreement clearly show that the assessee has transferred the land to the developers for development purpose and the Joint Venture agreement is also a registered agreement. The assessee has shown full value of consideration of Rs.4,27,99,372/-. He deducted an amount of Rs.30,54,317/- as cost of acquisition and the remaining amount of Rs.3,97,45,055/- has been claimed as exemption u/s 54B and u/s 54F of the Act. The assessee has claimed exemption u/s 54B of Rs.3,60,35,153/- and u/s 54F of Rs.37,09,902/- respectively. Accordingly, he has shown LTCG at Rs.Nil on the capital gains derived from the transfer of same land. It is also seen that assessee has claimed the exemption u/s 54B on account of purchase of agricultural land in relevant year and u/s 54F on account of investment in residential property, however, the capital gain on the transfer of asset is arisen on date of transfer of assets as on 20/01/2011 vide JV Agreement. Thus, the assessee has purchased the agricultural land beyond the period of two years from the date of transfer of original asset has mandated by the provisions of Section 54B of the IT Act. In view of the above facts, the assessee is not entitled for the claim of deduction/ exemption u/s 54B as the investment is made beyond the period of two years from the date of transfer of original asset."

11. Referring the assessment order for assessment year 2016-17, copy of which is placed at pages 101 to 108 of the paper book, the Ld. Counsel for the assessee drew the attention of the Bench to para 6 of the order where the Assessing Officer has mentioned as under:

On verification of the submission made by you, it is seen that the assessee has entered into joint ventures with Nandan Buildcon Pvt. Ltd. vide registered joint venture agreement dated 20.01.2011. As per the Joint Venture, the assessee is to receive 34% of total construction area. The assessee has converted the land into stock in trade in the financial year 2010-11, hence the assessee has shown long term capital gain and business income as per the provisions of section 45(2) of the Income Tax Act. The facts show that the assessee has already transferred the land into stock in trade in the Financial Year 2010-11. Thus the date of transfer of land is 20.01.2011 as per the date of JV.

12. Referring to the decision of Hon'ble Supreme Court in the case of CIT vs. Balbir Singh Maini reported in 398 ITR 531 (SC), he submitted that the Hon'ble Supreme Court in the said decision has held that registered development agreement with possession constitutes transfer within meaning of section 2(47) of the Act. He submitted that the purpose of assessment proceedings before the taxing authorities is to assess the correct tax liability of an assessee in accordance with law. For the above proposition, he relied on the decision of Hon'ble Delhi High Court in the case of CIT vs. Bharat General Reinsurance Co. Ltd. reported in 81 ITR 303 (Del) and the decision of the Pune Bench of the Tribunal in the case of Technoforce Solutions (I) Pvt Ltd vs. DCIT vide ITA No.1381/PUN/2023 order dated 10.01.2024 for assessment year 2015-16.

13. Referring to the decision of Hon'ble Supreme Court in the case of Goetze (India) Ltd. Vs. CIT reported in (2006) 284 ITR 323 (SC) and the decision of Hon'ble Bombay High Court in the case of CIT vs. Pruthvi Brokers & Shareholders (supra), he submitted that the assessee can make a new claim during the appellate proceedings.

14. Referring to the decision of Hon'ble Bombay High Court in the case of Balmukund Acharya vs. CIT reported in (2009) 310 ITR 310 (Bom) and the decision of Hon'ble Karnataka High Court in the case of Shri Devendra Pai vs. ACIT reported in 439 ITR 532 (Kar), he submitted that the department must not take advantage of ignorance of the assessee about his rights and it is their duty to assist the tax payer in every reasonable way.

15. Referring to the following decisions, he submitted that the appellate authorities have the appellate power u/s 254 of the Act to consider the revised claim or admit a new claim by the assessee:

- i) *National Thermal Co. Ltd. Vs. CIT (1998) 229 ITR 383 (SC)*
- ii) *Jute Corporation of India Ltd. Vs. CIT (1991) 187 ITR 688 (SC)*
- iii) *CIT vs. M/s. Abhinitha Foundation Pvt Ltd. vide ITA No.811 of 2016 dated 06.06.2017*
- iv) *Sanchit Software & Solutions (P.) Ltd. Vs. CIT (2021) 349 ITR 404 (Bom)*

16. Referring to the decision of Hon'ble Supreme Court in the case of CIT vs Mahalakshmi Textile Mills Ltd reported in 66 ITR 710 (SC) and the decision of

Hon'ble Bombay High Court in the case of Ciba of India Ltd vs. CIT reported in 70 Taxman 505 (Bom), he submitted that the assessee can raise an alternate plea / ground before the Tribunal even if not raised earlier.

17. The Ld. Counsel for the assessee submitted that both the lower authorities have given a concurrent finding that the transfer of agricultural land occurred on 20.01.2011 by virtue of provisions of section 2(47)(iv) and 2(47)(v) of the Act. He submitted that whichever stand one adopts whether conversion into stock or whether transfer of agricultural land, the issue of capital gain on sale has to be considered in assessment year 2011-12. He submitted that on that date the land was agricultural land under cultivation situated beyond municipal limits. Since the agricultural land is not a capital asset u/s 2(14)(iii) of the Act, therefore, no capital gain could arise in assessment year 2011-12. He submitted that conversion of capital asset into stock u/s 45(2) of the Act is inconsequential and the transfer of land and conversion of land into stock on same day has no effect. Further, if flats are treated as converted, then its cost and market value on date of conversion is again the same. Therefore, the issue of section 45(2) is inconsequential.

18. The Ld. Counsel for the assessee also filed a copy of the occupancy certificate dated 23.12.2014 and the following chart disclosing the calculation of correct capital gain on sale of flats:

<i>Particulars</i>	<i>FY 16-17</i>
	<i>AY 17-18</i>
<i>(a) Sale Consideration</i>	<i>3,67,25,561</i>
<i>(b) Total FMV as on date of CC (Refer Note below)</i>	<i>3,48,84,455</i>
<i>(c) Additional Cost to be borne</i>	<i>8,19,967</i>
<i>(d) Commission</i>	<i>4,20,000</i>
<i>(e) Total Cost without Indexation</i>	<i>3,61,24,422</i>
<i>Profit on sale of flats without indexation [(a) - (f)]</i>	<i>6,01,140</i>

Note:

Total FMV as on date of completion certificate @1100/sq.ft 13,95,37,818
25% of FMV 3,48,84,455

Total Sale Consideration of sale of flats

<i>F.Y 2013-14</i>	<i>1,00,95,640</i>
<i>F.Y. 2014-15</i>	<i>4,36,94,201</i>
<i>F.Y.2015-16</i>	<i>2,33,36,161</i>
<i>F.Y. 2016-17</i>	<i>3,67,25,561</i>
<i>F.Y. 2017-18</i>	<i>3,39,52,354</i>
	<i>14,78,03,917</i>

19. He accordingly submitted that once the transfer has taken place the capital gain that arises for receipt of the area as per the JV agreement is liable to tax in the assessment year 2015-16. Once the assessee sells the flats in the current assessment year i.e. assessment year 2017-18, the capital gain that is liable to be taxed is the difference between the sale price minus the cost of acquisition i.e. the cost of flats that has been allotted to the assessee in the financial year 2014-15 relevant to assessment year 2015-16. He accordingly submitted that he has no objection if the matter is restored to the file of the Assessing Officer with a direction to compute the correct capital gain tax as per law.

20. The Ld. DR on the other hand while supporting the orders of the Assessing Officer and the Ld. CIT(A) / NFAC submitted that he has no objection if the matter is restored to the file of the Assessing Officer with a direction to re-compute the correct tax liability on account of sale of flats during the impugned assessment year.

21. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find the Assessing Officer in the instant case disallowed the claim of deduction u/s 54B of the Act on the ground that the assessee has already availed deduction u/s 54B of the Act in assessment years 2014-15, 2015-16 and 2016-17. Further, the assessee during the year has again claimed the deduction u/s 54B of the Act on account of purchase of agricultural land which is after a period of 2 years since the date of transfer as per JV agreement and as per the transfer of capital asset in stock in trade is dated 20.01.2011 and the assessee has purchased the agricultural land on 23.03.2017. The reasons given by the Assessing Officer for rejecting the claim of deduction u/s 54B of the Act have already been reproduced in the preceding paragraphs. We find before the Ld. CIT(A) / NFAC the assessee made an alternate claim stating that the claim of deduction u/s 54B is incorrect and the assessee is entitled to claim deduction u/s 54F of the Act. However, the Ld. CIT(A) / NFAC also rejected the same, the reasons of which have already been reproduced in the preceding paragraphs.

22. It is an admitted fact that the assessee is neither entitled to any deduction either u/s 54B or u/s 54F. The assessee is liable for capital gain tax on the income that arose on the sale of flats during the impugned assessment year i.e. assessment year 2017-18. It is the submission of the Ld. Counsel for the assessee that once the assessee has entered into a registered JV agreement on 20.01.2011 the asset was transferred and the share of the assessee being 34% of the constructed area is the capital asset in the hands of the assessee and the same is liable for capital gain. However, since the land sold was an agricultural land, the capital gain in the hands of the assessee during the assessment year 2011-12 does not arise. However, when the flats are sold during the impugned assessment year, the capital gain has to be computed by deducting the cost of acquisition from the sale price and the resultant capital gain, if any, is liable to tax.

23. We find some force in the above arguments of the Ld. Counsel for the assessee. The Hon'ble Bombay High Court in the case of CIT vs. Pruthvi Brokers & Shareholders (supra) has held that an assessee is entitled to raise not merely legal submissions before the appellate authorities but is also entitled to raise additional claims before them. The appellate authorities have the discretion whether or not to permit such additional claims to be raised. It cannot, however, be said that they have no jurisdiction to consider the same. The relevant observations of Hon'ble High Court read as under:

“(B) It is clear, therefore, that an assessee is entitled to raise not merely additional legal submissions before the appellate authorities, but is also entitled to raise additional claims before them. The appellate authorities have the discretion

whether or not to permit such additional claims to be raised. It cannot, however, be said that they have no jurisdiction to consider the same. They have the jurisdiction to entertain the new claim. That they may choose not to exercise their jurisdiction in a given case is another matter. The exercise of discretion is entirely different from the existence of jurisdiction.”

24. We find the Hon’ble Supreme Court in the case of Goetze (India) Ltd. Vs.

CIT (supra) has held as under:

“4. The decision in question is that the power of the Tribunal under section 254 of the Income Tax Act, 1961, is to entertain for the first time a point of law provided the fact on the basis of which the issue of law can be raised before the Tribunal. The decision does not in any way relate to the power of the assessing officer to entertain a claim for deduction otherwise than by filing a revised return. In the circumstances of the case, we dismiss the civil appeal. However, we make it clear that the issue in this case is limited to the power of the assessing authority and does not impinge on the power of the Income Tax Appellate Tribunal under section 254 of the Income Tax Act, 1961. There shall be no order as to costs.”

25. In view of the above decisions, we hold that the assessee is entitled to raise an additional claim before the appellate authorities and the appellate authorities have the jurisdiction to entertain such a new claim.

26. We further find the Hon’ble Bombay High Court in the case of Balmukund Acharya vs. CIT (supra) has held that if any assessee, under a mistake, misconceptions or on not being properly instructed is over assessed, the authorities under the Act are required to assist him and ensure that only legitimate taxes due are collected. If particular levy is not permitted under the Act, tax cannot be levied applying the doctrine of estoppel. Similar view has been taken by Hon’ble Karnataka High Court in the case of Shri Devendra Pai vs. ACIT (supra).

27. We find the Hon'ble Delhi High Court in the case of CIT vs. Bharat General Reinsurance Co. Ltd. (supra) has held that the purpose of assessment proceedings before the taxing authorities is to assess correctly the tax liability of an assessee in accordance with law.

28. Since the Assessing Officer in the preceding years has already given a finding that the date of transfer of the land as per the JV agreement is 20.01.2011, therefore, the transfer of the land has taken place in assessment year 2011-12. Further, the flats were handed over to the assessee on 23.12.2014 as per the occupancy certificate. Thus, the market value of the share of the assessee towards the flats is the cost of acquisition in the assessment year 2015-16. Once the assessee sells the same in assessment year 2017-18, the capital gain that can be brought to tax is the difference between the sale price and the cost of acquisition. Since the assessee has filed a revised computation for determination of the correct tax liability on account of capital gain, therefore, considering the totality of the facts and circumstances of the case and relying on the decisions cited (supra), we deem it proper to restore the issue to the file of the Assessing Officer with a direction to verify the computation of long term capital gain and determine the correct tax liability in the hands of the assessee. Needless to say the Assessing Officer shall decide the issue as per fact and law and after giving due opportunity of being heard to the assessee. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

29. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 21st January, 2026.

Sd/-

(ASTHA CHANDRA)
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 21st January, 2026

GCVSR

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'B' Bench, Pune
5. गार्ड फाईल / Guard file.

Sd/-

(R. K. PANDA)
VICE PRESIDENT

आदेशानुसार/ BY ORDER,

// True Copy //

Assistant Registrar
आयकर अपीलीय अधिकरण ,पुणे
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	19.01,2026		Sr. PS/PS
2	Draft placed before author	20.01,2026		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Office Superintendent			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			