

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

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER

ITA No.6499/Mum/2025
(Assessment year: 2019-20)

Hariprasad Vedasubramanian B-1901/2, Phase 2, Lake Pleasant, Lake Homes, Powai, Mumbai-400076 PAN:ADGPV3520R	vs	Income Tax Officer Kautilya Bhawan, G Block BKC, Mumbai 400051
APPELLANT		RESPONDENT

Assessee by : Shri Pritesh Joshi,
Respondent by : Shri Hemanshu Joshi (SR DR)

Date of hearing : 22/01/2026
Date of pronouncement : 30/01/2026

ORDER

Per: Anikesh Banerjee (JM):

The instant appeal of the assessee filed against the order of the NFAC, Delhi [for brevity 'the Id. CIT(A)], order passed under section 250 of the Income tax Act 1961 (for brevity 'the Act') for assessment year 2019-20, date of order 29.08.2025. The impugned order emanated from the order of the Assessment Unit Income-tax Department (for brevity the "Ld. AO") order passed under section 147 r.w.s. 144 r.w.s. 144B of the Act date of order 04.02.2025.

2. The brief facts of the case is that the assessee is in individual capacity filed the return and having income on salary during the impugned assessment year the assessee had earned income from capital gain and other sources. The assessee filed the return by declaring total income Rs.93,87,900/-. The return was selected for reopening. The notice u/sec. 148A was issued. During the impugned assessment year the assessee sold a property with a co-ownership with her wife Mrs. Preeti Parameshwaran by an agreement dated 21.04.2018 with a total consideration of Rs.2,64,00,000/-. The assessee claimed exemption of capital gain u/sec. 54EC of the Act and also claimed deduction u/sec. 80G/80GGC amount of Rs.6,00,000/-. The notice was issued, finally the Ld. AO passed an ex parte order and made addition amount of Rs.49,95,454/- being undisclosed long term capital gain related to sale of the said property. Being aggrieved assessee filed an appeal before the Ld. CIT(A). The assessee had contended before the Ld. CIT(A) that the assessee had holding the property with joint ownership with his wife and sold the joint holding property B 1901 Lake Pleasant Powai, Mumbai and the same was jointly owned and purchased with his wife. Accordingly, the sale proceeding is divided 50-50 in between both the co-owners. The Ld. AO wrongly added back the alleged amount related to wife with the assessee's income. The alleged addition is not related to assessee which is bad in law. Further, stated that the assessee claimed deduction u/sec. 54EC by investing in specified REC Bond amount of Rs.28,00,000/- on 31.10.2018. The Ld. AO stated that the investment is one day beyond six months by using the 'same day, next month method'. Accordingly, the exemption calimed u/sec 54EC was denied. The payment for subscription along with submission of the application for purchasing REC Bond has been made on 04.10.2018 and the payment has also been released on

04.10.2018. As per the assessee, section 54EC containing that “.....the assessee has, at any time with a period of six months after the date of such transfer, invested the whole or any part of capital gains....”. So as per the following the statute directed the payment has been debited on 04.10.2018 related to the sale of said property on 30.04.2018 is within limitation. But without considering the same, the claim of exemption u/sec. 54EC was denied. The assessee claims deduction under chapter VIA of Rs.2,18,715/- which was not allowed by the Ld.AO in the final tax liability. Finally the Ld. CIT(A) uphold the observations made by the Ld. AO. Being aggrieved assessee filed an appeal before us.

3. The Ld. AR submitted a paper book containing **pages 1 to 195**, which was taken on record. The Ld. AR contended that the property in question was jointly owned by the assessee and his wife and, therefore, the capital gains arising from the sale of the said property were required to be apportioned between the two co-owners. It was submitted that the Ld. AO had arbitrarily assessed the capital gains attributable to the wife in the hands of the assessee-husband. Further, it was contended that the assessee had invested the sale proceeds in specified bonds on 04.10.2018, which was within the statutory time limit prescribed for investment in REC bonds for claiming deduction under section 54EC of the Act. However, due to the inability of the assessee to appear before the Ld. AO, the assessment order was passed ex parte. The Ld. AR therefore prayed that the matter be restored to the file of the Ld. AO for de novo adjudication.

4. The Ld. DR supported the orders passed by the revenue authorities.

5. We heard the rival submissions and examined the material available on record. On verification of the property sale agreement, placed at **APB pages 9 to 45**, it is evident that the property was jointly owned by the assessee and his wife. The wife being a separate individual assessee, the capital gains arising from her share of ownership cannot be assessed in the hands of the assessee-husband. However, with regard to the claim of deduction under section 54EC of the Act, as well as other deductions claimed under Chapter VI-A, we find that the assessee could not adequately explain or substantiate the claims before the Ld. AO. In the interest of justice, we are of the considered view that the matter should be restored to the file of the Ld. AO for fresh adjudication after providing the assessee with a reasonable opportunity of being heard. At the same time, the assessee is directed to extend full cooperation and remain diligent to facilitate the expeditious disposal of the assessment proceedings.

6. In the result, the appeal of the assessee being **ITA No.6499/Mum/2025** is allowed statistical purpose.

Order pronounced in the open court on 30th day of January 2026.

Sd/-

(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 30/01/2026
SAUMYA Sr.PS

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,

Mumbai

5. गार्डफाइल/Guard file.

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BY ORDER,

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