

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "J(SMC)", MUMBAI

**BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**ITA No.8262/Mum/2025
(Assessment year: 2015-16)**

Bindu Sunilkumar Kalappat 4-B, Sarvodaya Society, Adi Shankracharya Marg, Powai, Mumbai-400076 PAN: ALVPK5051B	vs	Income Tax Officer, Ward 9(1)(1), Mumbai Aayakar Bhavan, M K Road, Mumbai-400020
APPELLANT		RESPONDENT

Assessee by : Shri Rahul Rathi
Respondent by : Shri Aditya Rai (SR. DR)

Date of hearing : 10/02/2026
Date of pronouncement : 16/02/2026

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 2015-16, date of order 30.09.2025. 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 20.01.2024.

2. The Ld. AR argued and filed a written submission containing **page 1 to 53**. The Ld. AR contended that the assessee have sold the property with joint ownership with her husband total amount of Rs.60,00,000/-. The Ld. AO issued notice u/sec. 133(6) to the State Registry Authority (SRA) and the valuation was duly received from SRA amount of Rs.60,00,000/-. The Ld. AO accordingly calculated the assessee's share @50% of the sale consideration which comes amount to Rs.30,00,000/-. Considering the natural justice the cost of acquisition was considered 2,00,000/-. So the 50% of the cost of acquisition comes to Rs.1,00,000/- which was duly deducted from the sale consideration of Rs.30,00,000/-. The balance amount comes to Rs.29,00,000/- which was considered as capita gain and added back with the total income of the assessee. The aggrieved assessee filed an appeal before the Ld. CIT(A) with a delay for 325 days. The Ld. CIT(A) rejected the appeal petition on the ground of limitation as there is no sufficient cause for condoning the delay. Being aggrieved the assessee filed an appeal before us.

3. The Ld. AR submitted that the husband of the assessee, Shri Sunil Kumar Nana Kalappat, had declared the entire sale consideration of Rs.60,00,000/- in his return of income for A.Y. 2015-16 under the head "Long Term Capital Gains." Copies of the ITR and computation of income of the assessee's husband are placed at **APB pages 4 to 6**. Upon perusal of the record, it is observed that after claiming indexation of cost of acquisition amounting to Rs.21,33,333/- and deduction under section 54 of Rs.35,00,000/-, the net taxable long-term capital gain declared in his hands was Rs.3,66,667/-. It was thus contended that the same income cannot be subjected to double taxation in the hands of the assessee. The

Ld. AR accordingly prayed that the matter be remanded to the file of the Ld. CIT(A) with a direction to afford the assessee a fair opportunity of being heard on merits.

4. The Ld. DR, on the other hand, supported the orders of the revenue authorities. But, during the course of hearing, the Ld. DR had not controverted the factual submissions advanced by the Ld. AR

5. We have heard the rival submissions and examined the material available on record. It is noted that the Ld. AO had made an addition of Rs.29,00,000/- under the head "Capital Gains" in respect of the sale of the property. The assessee has contended that the entire sale consideration of Rs.60,00,000/- was already declared in the hands of her husband, who offered long-term capital gains of Rs.3,66,667/- after duly claiming indexation and deduction under section 54 of the Act. It is further evident from the record that TDS of Rs.60,000/- on sale of the property was deducted in the hands of the assessee's husband which is reflected in Form-26AS. Copies of the ITR, computation of income, and Form 26AS of the assessee's husband are placed at **APB pages 4 to 10**. Upon consideration of the material placed before us, we find substantial merit in the contention raised by the assessee. It is further observed that the Ld. CIT(A) dismissed the appeal primarily on the ground of limitation, noting a delay of 325 days in filing the appeal before the first appellate authority. Although the assessee had filed a petition for condonation of delay along with Form No. 35, the Ld. CIT(A) rejected the condonation petition and disposed of the appeal without adjudicating the issues on merits. In the interest of justice, and considering that the income arising from the sale of property appears to have been duly declared in the return of

income of the assessee's husband, we deem it appropriate to restore the matter to the file of the Ld. CIT(A). The Ld. CIT(A) is directed to condone delay and to adjudicate the appeal afresh by passing a speaking order in accordance with law. Needless to state, the assessee shall be afforded a reasonable opportunity of being heard in the set-aside proceedings. At the same time, the assessee is expected to remain diligent and extend full cooperation for expeditious disposal of the appeal.

6. In the result, the appeal of the assessee bearing **ITA No.8262/Mum/2025** is allowed for statistical purpose.

Order pronounced in the open court on 16th day of February 2026.

Sd/-

(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER
Mumbai, दिनांक/Dated: 16/02/2026
SAUMYASr.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.

BY ORDER,

//True Copy//

(Asstt. Registrar), ITAT, MUMBAI