

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

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
AND
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No. 8017/Mum/2025
Assessment Year : 2011-12

Punam Vishnuraj Motwani, B/202, Lodha Imperia, LBS Marg, Mumbai-400078. PAN : ANZPM9150D	vs.	ITO-27(2)(5), Tower No. 6, Vashi Railway Station, Commercial Complex, Vashi, Navi Mumbai-400703.
(Appellant)		(Respondent)

For Assessee :	Shri Venugopal C. Nair
For Revenue :	Shri Virabhadra Mahajan, Sr.DR

Date of Hearing :	16-02-2026
Date of Pronouncement :	18-02-2026

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 29-09-2025, pertaining to Assessment Year (AY) 2011-12, wherein the assessee has challenged the sustenance of addition of Rs. 1,74,68,524/- u/s. 69 of the Income Tax Act, 1961 (‘the Act’).

2. Briefly, the facts of the case are that the assessment in this case was completed u/s. 144 r.w.s. 147 of the Act, wherein the AO brought to tax a

sum of Rs. 1,74,68,524/- as un-explained investment u/s. 69 of the Act for the reason that the assessee has failed to explain the nature and source of investment in the immovable property. The assessee thereafter, carried the matter in appeal before the Ld.CIT(A), who has since confirmed the findings of the AO and against the said order, the assessee is in appeal before us.

3. During the course of hearing, the Ld.AR submitted that it is a case where the assessee, a senior citizen, inherited a flat on demise of her husband and which was sold for a consideration of Rs. 90 lakhs and the amount so received was invested in acquisition of another residential property, wherein the assessee spent a sum of Rs. 89.24 lakhs. It was submitted that it was a case of a sale of a flat and thereafter, purchase of another residential property, however, both the transactions have been brought to tax u/s. 69 of the Act by the AO. It was submitted that during the course of appellate proceedings, the assessee submitted copy of sale and purchase agreements and the matter was remanded to the file of the AO for necessary verification. However, the AO has returned a finding stating that the assessee has failed to furnish copy of bank statement and, therefore, it is difficult to comment as to whether the consideration received from sale of the said flat had been utilized for the purchase of new immovable property. It was further submitted that relying on the said remand report, the Ld.CIT(A) has dismissed the appeal of the assessee. It was submitted that during the remand proceedings, the assessee was never asked to furnish copy of the bank statement and, therefore, the assessee was prevented by sufficient cause in terms of not submitting copy of the bank statement and it was accordingly submitted that the assessee may be allowed necessary opportunity to place on record a copy of the bank statement, wherein it is clearly evident that the purchase of new

property has been made out of the sale consideration received on the sale of the earlier property and the assessee satisfied the requirements for claiming exemption u/s 54 of the Act and the matter may be decided accordingly.

4. Per contra, the Ld.DR is heard, who has relied on the findings of the Ld.CIT(A) and submitted that during the remand proceedings, the assessee was specifically asked to provide bank statement to establish link between sale proceeds and purchase consideration and in absence thereof, the addition has been sustained by the Ld.CIT(A). At the same time, it was submitted that where the Bench so decide, the matter may be remanded to the file of the AO for necessary examination.

5. We have heard the rival contentions and perused the material available on record. We find from perusal of the records that the case of the assessee was re-opened basis information that the assessee has purchased immovable property to the tune of Rs. 84,68,523/- and has sold another immovable property to the tune of Rs. 90 lakhs and thereafter in the absence of any compliance on the part of the assessee in response to notices and the show cause issued by the AO, the AO has proceeded and passed *ex-parte* order u/s. 144 of the Act. At the same time, we find that both the amounts towards investment in the new property as well as sale consideration in respect of another property has been brought to tax u/s. 69 of the Act, wherein section 69 of the Act only relates to transactions wherein the assessee has made investments which are not recorded in the Books of Account, if any maintained by him for any source of income and in absence of any explanation so furnished in respect of nature and source of investment. Therefore on the face of it, we find that the AO has wrongly invoked the provisions of section 69 of the

Act at least insofar as the sale consideration received on the sale of immovable property to the tune of Rs. 90 lakhs is concerned and the same should have been brought to tax under the head 'capital gains' and on this count, the matter deserve to be set-aside.

6. Further during the appellate proceedings, the assessee has brought the relevant facts on record and submitted that out of sale consideration of existing house property, she has purchased another property to the tune of Rs. 89.24 lakhs and has submitted the necessary documentation in terms of sale and purchase agreements and has claimed exemption u/s 54 of the Act. However, in absence of the bank statement, the AO has expressed his inability to examine the nexus between the sale and purchase transaction and basis that the Ld.CIT(A) has upheld the addition so made by the AO and deduction so claimed u/s 54 has also been denied to the assessee. During the course of hearing, the Ld.AR submitted that the assessee was never asked to submit copy of bank statement. However, the bank statement is available with the assessee and the permission of the Bench was sought to bring the same on record by way of additional evidence. It was submitted that source of purchase of the new property is out of sale proceeds of existing property and the assessee satisfied the requisite conditions for claiming exemption u/s 54 of the Act and all the relevant documents are already available on record and the bank statement has also been submitted. We find that the bank statement being a crucial piece of evidence explaining the source of investment needs to be taken on record and the same is hereby admitted and the matter is remanded to the file of the AO for necessary examination/verification and to decide the matter afresh relating to claim of deduction u/s 54 of the Act which has been duly raised during the appellate proceedings.

7. In summary, the taxability of sale consideration on transfer of existing house property as well as claim of deduction u/s 54 in respect of purchase of another house property needs to be examined by the AO and the whole of the matter is accordingly set-aside to the file of the AO to decide the same afresh as per law after providing reasonable opportunity to the assessee.

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

Order pronounced in the open court on 18-02-2026

Sd/-
[SANDEEP SINGH KARHAIL]
JUDICIAL MEMBER

Sd/-
[VIKRAM SINGH YADAV]
ACCOUNTANT MEMBER

Mumbai,
Dated: 18-02-2026

TNMM

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