

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "A", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
And
SHRI JAGADISH, ACCOUNTANT MEMBER**

**ITA Nos.6864 and 6865/M/2025
Assessment Year: 2017-18**

ANAND BHUVAN CO-OP HSG SOCIETY LIMITED, Sharat Chandra Chatterjee Road, Santacruz West, Mumbai – 400054, Mumbai.	Vs.	The Income Tax Officer, Ward 22(1)(1), Mumbai, Area Code: MUM, AO Type: W, AO Number:1, Range Code: 197, Jurisdiction: WARD 22(1)(1), Mumbai, Building Name: PIRAMAL CHAMBER, Mumbai ROOM No.319, 3rd Floor, PIRAMAL CHAMBER, LAL BAUG, PAREL, MUMBAI.
(Appellant)		(Respondent)

PAN: AABAA 0045 K

Present for:

Assessee by : Shri Sanjay C. Shah
Revenue by : Shri Surendra Mohan, SR. D.R.

Date of Hearing : 11.02.2026
Date of Pronouncement : 27.02.2026

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

These appeals have been preferred by the Assessee against the orders even dated 19.08.2025, impugned herein, passed by the Ld. Commissioner of Income Tax (Exemptions) [in short Ld. Commissioner] u/s 12A and 80G of the Income Tax Act, 1961 [in short 'the Act'] for the A.Y. 2017-18.

2. As both the Appeals under consideration are based on the same Assessment Order dated 25.05.2023 u/s. 147 r.w.s. 144 which resulted into making the addition of Rs.5,93,50,999/- u/s. 50C of the Act, and levying the penalty to the tune of Rs.4,21,80,756/- being 200% of the tax payable to the tune of Rs.2,10,90,378/- on the under reported income of Rs.5,93,50,999/- as alleged, vide penalty order dated 23.11.2023 u/s. 270A of the Act, and therefore for the sake of brevity the same were heard together and are disposed of by this composite order by taking into consideration **ITA No.6864/M/2025**, wherein, the Assessment Order dated 25.05.2023, which is the genesis of making the addition and levying the penalty, was involved and/or adjudicated upon by the Ld. Commissioner, vide impugned order dated 19.08.2025, as a lead case and result of the same shall be applicable *mutatis-mutandis* to both the appeals under consideration.

3. Coming to ITA No.6864/M/2025, we observe that the case of the Assessee was reopened u/s 147 of the Act by issuing notice dated 30.06.2021 under the pre-amended provisions of the Act, on the basis of information that the Assessee had entered into transactions of immovable properties during the Financial Year (in short F.Y.) 2016-17, wherein the transaction value is Rs. 'NIL' and stamp duty value is Rs.5,93,50,999/-.

4. Thus, in order to examine the aforesaid transaction, the Assessing Officer issued various statutory notices to the Assessee, including through affixture at the last known address of the Assessee by the Ward Inspector on 18.05.2023, whereby the date of hearing was fixed on 22.05.2023. However, the Assessee did not

file any reply/details till the passing of the Assessment Order dated 25.05.2023 u/s. 147 read with section 144 of the Act, thus, Assessing Officer, was constrained to make the addition of Rs.5,93,50,999/- u/s 50C of the Act, being short-term capital gain.

5. The Assessee being aggrieved, challenged the aforesaid addition and the Assessment Order before the Ld. Commissioner and claimed that the Assessee was not registered on E-filing portal and on receipt of notice for recovery of demand dated 09.01.2025, the Assessee came to know about the Assessment Order and outstanding demand.

6. The Ld. Commissioner, by considering the peculiar facts and circumstances of the case and the powers granted with effect from 01.10.2024 for setting aside an Assessment Order by statute, set-aside the Assessment Order to the file of the Assessing Officer for making fresh Assessment, within the time limit provided in section 153(3) of the Act.

7. As the Ld. Commissioner has set-aside the Assessment Order in toto with the direction to make a fresh Assessment Order, by the Assessing Officer, thus he has not gone into the merits of the case/each ground taken by the Assessee. The Assessee, still being dissatisfied with the impugned order, has preferred instant appeal raising various issues, including legal in nature.

8. We have given thoughtful consideration to the peculiar facts and circumstances of the case. As the Ld. Commissioner has already set-aside the Assessment Order and therefore, as on today, there is no Assessment Order in existence, which requires to be quashed.

9. On being asked, the Ld. Counsel for the Assessee alternatively submitted that the Assessing Officer will not adjudicate the legal grounds raised by the Assessee and within the time framework and therefore appropriate direction may be issued. The Ld. DR did not refute the said claim of the Assessee.

10. Considering the request of Assessee, we deem it appropriate to direct the Assessing Officer to adjudicate the legal grounds as raised before us, which the Assessee intends to raise before the Assessing Officer, as well in due course of time. Further, the Assessing Officer shall adhere to the time limit as prescribed in the provisions of Section 153(3) of the Act, for passing the fresh Assessment Order, in the remand case, as directed by the learned Commissioner.

11. Thus, in effect, the Assessing Officer is directed to adjudicate the legal issues to be raised by the Assessee and also pass the assessment order afresh within the time limit, as provided in section 153(3) of the Act, as also directed by the Ld. Commissioner in impugned order.

12. The appeal i.e. **ITA No.6865/M/2025** pertains to the penalty levied u/s. 270A of the Act. As the Ld. Commissioner has already set-aside the quantum appeal/case to the file of the Assessing Officer for passing the Assessment Order afresh. Thus, in view of above, this case is also set-aside to the file of the Assessing Officer for decision afresh, on arising the necessity for levying the penalty.

13. In the result, both the Appeals under consideration are partly allowed, on the above terms/directions.

Order pronounced in the open court on 27.02.2026.

**Sd/-
(JAGADISH)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

M. Ranganath Vithal
Sr. Private Secretary.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.