आयकर अपीलीय अधिकरण, मुंबई पीठें, मुंबई
INCOME TAX APPELLATE TRIBUNAL, MUMBAI
BENCHES, MUMBAI

BENCH: D

BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

ITA 204/MUM/2026 (निर्धारण वर्ष/Assessment Year: **2012-13**)		
RENU ARUN TALWAR 7, SWASTIK SOCIETY, NORTH SOUTH ROAD NO. 1 JUHU JVPD SCHEME, MUMBAI-400056, MAHARASHTRA	**Vs.**	**CIRCLE 17(1), MUMBAI** KAUTILYA BHAVAN, MUMBAI-400051, MAHARASHTRA
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee:		**AABPT0540P**
अपीलार्थी द्वारा/Appellant represented by:		**Shri Subramaniam**
प्रत्यर्थी द्वारा/Respondent represented by:		**Shri Amit Kumar Singh SR. DR.**

सुनवाई की तारीख / Date of conclusion of hearing:	**21-Jul-2026**
घोषणा की तारीख / Date of pronouncement:	**16/10/2026**

आदेश / ORDER

PER SMT. BEENA PILLAI, JUDICIAL MEMBER:

The present appeal filed by the assessee arises out of order dated 24th June, 2025 passed by NFAC-Delhi for A.Y. 2012-13 on following grounds of appeal:

1) *Condonation of delay in Filing the Appeal: Your Appellants were in receipt of the order under section 250 of the Income Tax Act, 1961 dated 24th June, 2025 on the ITBA portal and on Your Appellants email ID. The age of Your Appellants about 80 years, who resides along with her husband, Mr. Arun Talwar, about 85 years. Considering their age, there were limitations in accessing to emails and communication with the AR of Your Appellant. It*

was only about 10 days back, when the AR of Your Appellant logged-in on the ITBA Portal and noticed that an Order under section 250 had been passed and the time limit of 60 days had elapsed. Considering these limitations, it is respectfully submitted before Your Honor that the delay of 140 days in filing of the appeal be condoned. Your Appellant respectfully submits that the delay in Filing of Appeal be condoned

2) *The Honorable Commissioner of Income Tax (Appeals), NFAC, Delhi confirmed the additions amounting in all to a sum of Rs. 1,70,25,018/- made by the Assessing Officer in an order passed under section 143 (3) r.w.s. 147 of the I.T Act, 1961. The breakup of the additions being Your Appellant respectfully submits that the additions of Rs. 1,70,25,018/- be ordered to be deleted.*

3) *The Honorable Commissioner of Income Tax (Appeals), NFAC, Delhi did not consider the ground raised by Your Appellant, wherein the Assessing Officer erred in considering the Long-Term Capital Gain at Rs. 6,82,68,554/- as against the Long-Term Capital Gain of Rs. 4,26,46,786/- computed as per the assessment order. Your Appellant had already made applications for rectification of mistake apparent from records, under section 154 of the Income Tax Act, 1961, dated 4th February 2020 and 7th January, 2026 before the Assessing Officer. Should the Assessing Officer rectify the mistake apparent from records, this ground of appeal would be withdrawn.*

4) *Your Appellant crave leave to add, alter, OR amend OR withdraw the ground of Appeal and submit such statements, documents and papers as may be considered necessary either at OR before hearing of the appeal.*

Brief facts of the case are as under:

The assessee is an individual deriving income under the heads “Capital Gains” and “Income from Other Sources”. For the year under consideration, the assessee filed her return of income on 31/07/2012, declaring a total income of ₹3,42,54,515/-, which was processed under section 143(1) of the Act.

Subsequently, the Income-tax Officer received information regarding the sale/transfer of a plot of land bearing Plot No.711, together with the structure standing thereon, situated in Sindh Co-operative Housing Society Ltd., Aundh, Pune. The information indicated that the assessee had sold/transferred the said property pursuant to an agreement dated 30.03.2011. On the basis of this information, the Assessing Officer initiated reassessment proceedings by issuing a notice under section 148 of the Act dated 22.03.2019.

2.1. In response to the notice, the assessee filed a return of income declaring a total income of ₹2,55,22,240/-. The reasons recorded by the Assessing Officer for reopening the assessment were subsequently furnished to the assessee and are reproduced hereunder:

> *"2 In this case the information has received from the office of the Income Tax Officer (Inv.). Unit-2, Pune, forwarded by ITO-25(3)(3), Mumbai on 08/03/2017 wherein it has been informed that During the verification of Sale/ transfer of Plot in Sind CHS Ltd. Aundh, Pune it is seen that the above assessee had sold/transferred her Plot No. 711 vide agreement dated 30.03.2011. On verification of Valuation Report it is seen that the valuer has adopted rate of Rs. 108/-per Sq. Ft. and construction cost Rs. 110/- per Sq. Ft. on the basis of market rates as on 01.04.1981*
>
> *2.1 Subsequently, it is noticed from other Valuation Reports that in the same area valuers had adopted different rates on the basis of 01.04. 1981 as below:*
>
> *i. Plot No. 269 area 1395 Sq. Mtrs. at Sind CHS Ltd. Aundh, Pune vide agreement dated 05.01.1982 registration No. 83-3-18/1982 for Rs. 2,50,000/- Valuer had adopted rate of Rs. 16.65/-per Sq. Ft.*
>
> *ii. Plot No. 150 old and 624 new area 1090.30 Sq. Mtrs. and construction 564.05 Sq. Mtrs. vide agreement dated 26.02.1988 registration No 3157/1988 for Rs. 15,50,000/- Valuer had adopted rate of Rs 132 15/- per Sq. Ft. including construction cost (Copies of the same is also received*

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and placed on the record). On the above valuation reports, it is seen that the valuer of Smt. Renu Talwar had made valuation of land at higher side

2.2 A summons u/s 131(1A) Issued by the Income Tax Officer (Inv.), Unit-2, Pune to the valuer Shri S. D. Joshi (Mobile 9422090504) for calling for information. A statement u/s 131 of valuer was taken. The facts & actual instances of land transactions brought to the notice of Shri S. D. Joshi. After going through the facts the valuer is accepted that he has made valuation on the basis of market information @ 110/-per Sq. Ft. Shri S. D Joshi withdrawn the valuation report dated 10.11.2011 of the said plot. (Copies of the same is also received and placed on the record). The letter of withdrawn of valuation report which was addressed to the assessee is placed on record.

2.3 During the proceeding Smt. Aarti Sanghvi approved valuer, has submitted a copy of valuation report of AOV Solapur in respect of Sind Societies Plots on the basis of sale instances which was adopted at the rate of Rs. 40/-per Sq. Ft. The difference in Capital gain is worked out as under

A. Cost of acquisition -land cost As per valuation report dated 10.11.2011@ 110 per Sq. Ft.	*Cost*	*Index*	*Indexed cost*
877.93@ 110	*9,66,723*	*785*	*75,80,925*
B. As Per valuation report of AOV Solapur@ 40 per Sq Ft. 877.93 @ 40	*3,51,172*	*785*	*27,56,700*
Difference			*48,24,225/-*

In view of the above facts the difference of Rs. 48,24,225/-is taxable for F.Y. 2011-12.

2.4 To verify the financial transactions, data of the assessee available on ITD system is seen and it is noticed that assessee has though filed the return of income for the year under consideration but has failed to disclose the income received during the respective A.Y. Therefore, taking into consideration the information received and facts of the case, I have reason to believe that in this case income to the tune of Rs.48,24,225/- which is liable to be taxed, had escaped assessment on account of failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment of A.Y. 2012-13."

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2.2. During the course of reassessment proceedings, the assessee furnished valuation reports wherein the valuer adopted a rate of ₹108 per sq. ft. for the land and a construction cost of ₹110 per sq. ft. for the structure standing thereon, with reference to the market value as on 01.04.1981. Upon examining the valuation reports and comparing the values adopted by other valuers in respect of properties situated in and around the same locality, the Ld.AO observed that the rates adopted in the assessee's valuation reports differed from those adopted in the other reports.

2.3. Accordingly, the Investigation Wing issued summons under section 131(1) of the Act to the assessee's valuer. In the statement recorded under the said provision, the valuer stated that the valuation had been carried out on the basis of market information, adopting a rate of ₹110 per sq. ft. The Ld.AO further recorded that the valuer had withdrawn the valuation report dated 10.11.2011 relating to the plot and the structure thereon.

2.4. Thereafter, the Ld.AO adopted a rate of ₹40 per sq. ft., based on the valuation furnished by Smt. Arti Sindhvi, an approved valuer from Solapur, in respect of a plot situated in Sindh Co-operative Housing Society. The said valuation was stated to be based on sale instances.

2.5. In the meanwhile, it is the Ld.AO has recorded that assessee approached M/s SNA Architects being an approved valuer who vide their report dated 14.06.2016 submitted that valuation reports as on 1st April, 1981 for a total sum of Rs. 4,25,000/- wherein the breakup was provided being Rs. 2,83,600/- towards the land and Rs. 1,41,500/- towards the land of structure. The Ld. AO noticed

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that it is this valuation report that was considered by the assessee while filing revised return pursuant to the notice issued u/s 148 of the Act.

2.6. The Ld.AO, upon considering the subsequent valuation report relied upon by the assessee, accepted the cost of the land at ₹2,83,600/-. However, the cost of the structure standing on the land, amounting to ₹1,45,500/-, was not considered while computing the indexed cost of acquisition. Consequently, the Ld.AO determined the indexed cost at ₹22,26,260/- as against ₹33,36,250/- claimed by the assessee, thereby reducing the indexed cost of acquisition by ₹11,09,940/-.

2.7. The Ld.AO further noted that the assessee had purchased two adjacent residential flats for an aggregate consideration of ₹3,35,36,982/- and claimed deduction under section 54 of the Act in respect of the investment.

2.8. The Ld.AO accordingly called upon the assessee to substantiate her eligibility for deduction under section 54 of the Act. In response, the assessee submitted that, in the original return of income, she had claimed exemption only to the extent of ₹1,76,21,954/-, being the cost of one flat, although she had also invested in the second adjoining flat. In the return filed in response to the notice under section 148 of the Act, the assessee claimed deduction for the entire investment of ₹3,35,36,982/-.

2.9. The assessee contended that the two flats were adjacent to each other, had been booked together and were intended to constitute a single residential house. Accordingly, it was submitted

that the investment in both flats was eligible for deduction under section 54 of the Act.

2.10. The Ld.AO, however, restricted the deduction to ₹1,76,21,954/-, being the investment attributable to one residential flat, on the ground that section 54 permitted exemption in respect of only one residential house. Consequently, while computing the taxable capital gains, the Ld.AO restricted deduction under section 54 to ₹1,76,21,954/- as against the claim of ₹3,35,36,982/-. The Ld.AO also made an adjustment on account of the cost of acquisition by not accepting the valuation claimed by the assessee and adopting a rate of ₹40 per sq. ft. This resulted in a further addition of ₹48,24,225/-. The total addition on account of capital gains was determined at ₹4,26,26,786/-.

Aggrieved by the order of Ld.AO, assessee preferred appeal before the Ld.CIT(A).

3. The Ld.CIT(A), after considering the submissions of the assessee by observing as under:

> *"5.3. I have considered the facts of the case and submissions made by the appellant. As per the contents of the assessment order, the appellant had purchased two Flats and claimed the exemption on one residential flat u/s 54 of Rs.1,76,21,954/- in the original return filed. But while filing the return in response to Notice u/s 148, the appellant has claimed exemption of Rs.3,35,36,982/- u/s 54F by stating that both the Flats constitute only one residential house. The AO has denied the appellant's claim by stating that for claiming exemption u/s 54/54F is to invest the capital gain in single residential house and not on multiple residential units. The appellant has provided some case laws in support of her claim but she has failed to provide documentary evidences which are crucial to substantiate her claim. During the appellate proceedings, no additional evidences were furnished by the appellant in support of her claim. The appellant claimed both the adjacent flats as one residential house but she has failed to submit evidences such as sanctioned layout plan showing both flats combined into one-unit, Municipal Property Tax Receipt which*

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assessed two flats as a single unit, a single electricity or water meter for both units or addressed to the same flat/unit after combination, a single house number allotted by municipal authorities, completion certificate which reflect the property as one residential unit, a certificate from a licensed architect or engineer confirming the physical combination of both flats into a single dwelling unit, Photos showing internal connectivity (common door/hallway, no separating wall). In view of the above, I find that the AO's action in allowing the exemption u/s 54F in single unit of Flat is legally valid and sustainable. Thus, the grounds raised by the appellant stands dismissed on law as well as on facts. Ground of appeal related to 271(1) (c) is premature and hence, is not adjudicated."

Aggrieved by the order of Ld.CIT(A), the assessee has preferred appeal before this *Tribunal*.

4. At the outset, the Ld.AR submitted that there is delay of 131 days in filing the appeal before this *Tribunal*. The assessee has filed an application seeking condonation of delay, dated 22/07/2026, seeking condonation of delay, which is reproduced as under:

Date: 22/07/2026

To,
The Registrar,
Income-tax Appellate Tribunal, (Mumbai)
Bench D

Respected Sir,
Ref. Mrs. Renu Arun Talwar
PAN: AABPT0540P
Assessment Year ('AY'): 2012-13

Sub: Application for condonation of delay of 140 days in filing the Appeal for AY 2018 -19.

1. The Appellant above named was issued an Appellate Order under section ('u/s') 250 of the Income Tax Act, 1961 ('the Act') bearing Appeal No. CIT (A) 37, Mumbai/10655/2019-20 on 24th June 2025.

2. As per section 253 of the Act, the Appellant was required to file an appeal before the Hon'ble ITAT within 60 days from the date of communication of the said order. However, the present appeal could be filed only on 09.01.2026 and thus there was a delay of 140 days.

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3. The Appellant submits that the appellate order and was sent to the Appellant's email address. The Appellant, due to her old age, (being 80 years old), and lack of proper understanding of the manner of communication through electronic mode, could not effectively track the notices and proceedings.

4. The Appellant further submits that it was only 10 days before filing the present appeal that appellant's Chartered Accountant logged in to her ITBA portal and informed her about the Order passed u/s 250 of the Act.

5. Immediately upon becoming aware of the said order, the Appellant sought professional advice and took prompt steps to prefer the present appeal before the Hon'ble ITAT. There has been no delay thereafter.

6. The Appellant submits that the delay in filing the present appeal has thus occurred due to bona fide reasons, including lack of awareness of the appellate proceedings and order, and absence of proper understanding of procedural requirements. The delay is neither intentional nor due to any mala fide conduct.

7. We request the Hon'ble Members' to condone the delay of 140 days in filing the appeal, admit and adjudicate the appeal.

8. The Appellant has already placed on record, copy of the sworn affidavit in this regard.

9. Therefore, in view of the above facts, the Appellant once again requests Hon'ble Tribunal to consider the facts of the case and condone the delay in filing this appeal.

Thanking You, Yours Faithfully,
Renu Salvas
Renu Arun Talwar
Appellant"

From the reasons furnished by the assessee, there does not arise any malafide intention on behalf of assessee for not filing the present appeals before this *Tribunal.*

4.1. In our view, the assesse has made out reasonable cause for the delay that is caused in filing the present appeals before this *Tribunal.* Nothing to establish any contrary intention has been placed by the revenue before this *Tribunal.* In our opinion there is

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a sufficient cause for condoning the delay as observed by *Hon'ble Supreme Court* in case of *Collector Land Acquisition Vs. Mst. Katiji & Ors.,* reported in *(1987) 167 ITR 471* in support of his contentions.

4.2. We place reliance on following observations by *Hon'ble Supreme Court* in case of *Collector Land Acquisition Vs. Mst. Katiji & Ors.,* reported in *(1987) 167 ITR 471* wherein, *Hon'ble Court* observed as under:-

> *"The Legislature has conferred the power to condone delay by enacting section 51 of the Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on de merits". The expression "sufficient cause" employed by the Legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose of the existence of the institution of courts. It is common knowledge that this court has been making a justifiably liberal approach in matters instituted in this court. But the message does not appear to have percolated down to all the other courts in the hierarchy.*
> *And such a liberal approach is adopted on principle as it is realized that :*
> *1. Ordinarily, a litigant does not stand to benefit by lodging an appeal late.*
> *2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties.*
> *.....1.Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period."*

4.3. Considering the submissions by both sides and respectfully following the observation by *Hon'ble Supreme Court*, we find it fit to

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condone the delay caused in filing the present appeals as it is not attributable to the assessee.

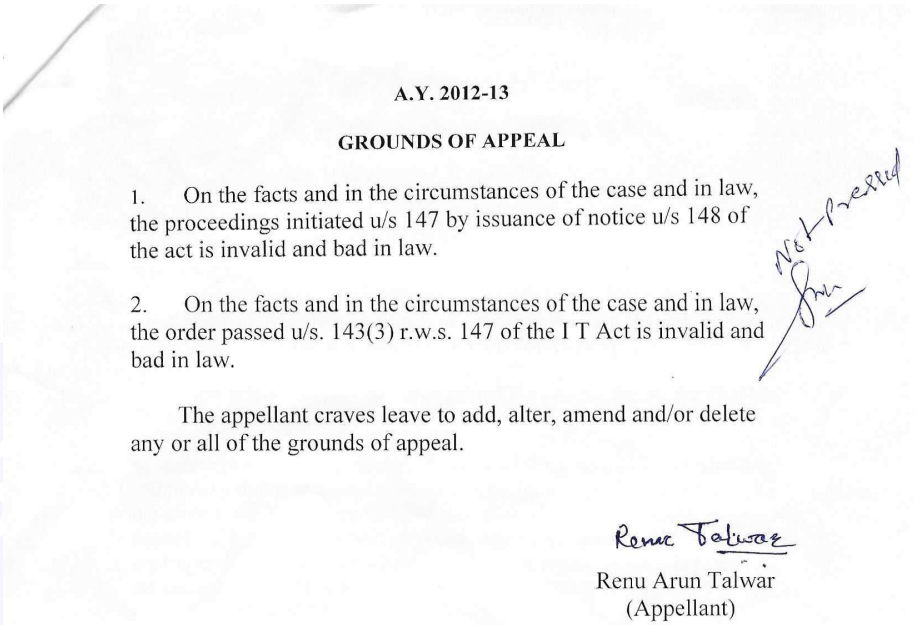
In any event, though the procedural law pertaining to the limitation has been drafted to construe it strictly, the fact remains that, considering such technicalities will not advance the cause of justice.

4.4. We take support from the observations of *Justice Krishna Iyer* wherein he has quoted at various occasion while dealing with technicalities that *"any interpretation that alludes substantive justice is not to be followed and that substantive justice must always prevail over procedural technicalities".* Even *Hon'ble Supreme Court* in case of *Collector Land Acquisition Vs. Mst. Katiji & Ors.,* reported in *(1987) 167 ITR 471* laid down a ratio of similar principles. Respectfully following the thoughts propounded by Late Hon'ble Justice Krishna Iyer, as well as various decisions of *Hon'ble Supreme Court* on similar issues, we condone the delay caused in filing the present appeals before this *Tribunal.*

Accordingly, we condone the delay in filing the present appeal before this *Tribunal.*

5. The assessee has filed an application seeking admission of additional ground on 13/04/2026 challenging validity of the notice issued under Section 148 to be bad in law.

5.1. At the outset, the Ld.AR submitted that assessee do not wish to press these grounds. A noting to that effect has also been made grounds raised in indexed to the application for admission, which is scanned, and reproduced as under:



A.Y. 2012-13

GROUNDS OF APPEAL

1. On the facts and in the circumstances of the case and in law, the proceedings initiated u/s 147 by issuance of notice u/s 148 of the act is invalid and bad in law.

2. On the facts and in the circumstances of the case and in law, the order passed u/s. 143(3) r.w.s. 147 of the I T Act is invalid and bad in law.

The appellant craves leave to add, alter, amend and/or delete any or all of the grounds of appeal.

Renu Talwar

Renu Arun Talwar
(Appellant)

Based on the above, the application seeking admission of additional grounds stands dismissed, as not pressed.

6. On merits, **Ground no.2** raised by the assessee, is in respect of addition at Rs.1,17,25,018/- made by the Ld.AO, the details of which are as under:

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Issue	*PARTICULARS*	*AMOUNTS(RS)*
1	*Indexed cost of the building on the land, as per valuation report of the valuer, whose report had been accepted during the assessment proceedings, which was missed out while passing the assessment order.*	*11,09,990/-*
2	*Exemption claimed in respect of purchase cost of the second residential flat acquired and thereby availed the benefits of the provisions of Section 54 of the Income Tax Act, 1961.*	*1,59,15,028/-*
	Total Rs.	*1,70,25,018/-*

6.1. Issue No. 1: Non-consideration of indexed cost of acquisition of the building.

The Ld.AR submitted that, during the course of assessment proceedings, the Ld.AO accepted the cost of the land at ₹2,83,600/- and the cost of the building standing thereon at ₹1,41,500/-, with reference to their value as on 01/04/1981. However, while computing the capital gains, the Ld.AO considered the indexed cost attributable to the land but omitted to account for the indexed cost of the building. Consequently, the indexed cost of acquisition was computed at a lower amount than that claimed by the assessee. The Ld.AR relied on the valuation report and the observations of the Ld.AO in support of the contention that the cost of the building ought to have been included in the computation.

6.1.1. The Ld.DR, on the other hand, relied upon the orders of the authorities below.

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We have perused the submission advanced by both the sides in light of the records placed before us.

6.2. On examination of the computation of capital gains in paragraph 4 of the assessment order, we find that the Ld.AO considered the indexed cost of acquisition attributable to the land but has omitted to account for the cost of the building standing thereon. The property transferred by the assessee comprised both the plot of land and the structure standing thereon. The consideration arising from the transfer of the property has been taken into account for computing the capital gains. In these circumstances, the cost of acquisition of the components comprising the property, to the extent established and allowable under the Act, is required to be considered in the computation. The existence of the building is not disputed in the assessment order, nor has the Revenue brought any material on record to demonstrate that the structure did not exist as on the relevant date or that the cost attributable to it, as accepted during the assessment proceedings, was liable to be excluded.

6.3. We further note that the assessee had furnished a valuation report in support of the cost attributable to the land and the building as on 01.04.1981. The assessment proceedings, indicate that the Ld.AO accepted the cost of the land and the building for the purpose of determining the historical cost of acquisition. However, while completing the computation, the indexed cost attributable to the building was not given effect to. Once the cost of the building has been accepted as forming part of the cost of acquisition, its exclusion from the computation of indexed cost,

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without any stated basis, results in an internally inconsistent computation of capital gains.

6.4. The computation of capital gains must reflect both the consideration attributable to the transfer and the allowable cost of acquisition of the asset transferred, in accordance with the applicable statutory provisions. The cost attributable to the building cannot be excluded merely because the land and the structure have been valued separately, particularly when the transfer comprises both components and the existence of the structure has not been disputed.

6.5. We, therefore, direct the Ld.AO to recompute the capital gains by taking into account the cost of the building as on 01/04/1981, to the extent accepted and allowable under the Act, and granting indexation in accordance with the applicable provisions. The Ld.AO shall verify the arithmetical computation of the indexed cost and ensure that the same is not duplicated or otherwise claimed beyond what is permissible under law. The assessee shall be afforded an opportunity of being heard in this limited exercise.

Accordingly, this issue is allowed for statistical purposes.

7. Issue 2 arising for consideration is whether the assessee is entitled to deduction under section 54 of the Act in respect of the entire investment of ₹3,35,36,982/- made in the purchase of two adjoining residential flats, as against the deduction of ₹1,76,21,954/- allowed by the Ld.AO with reference to one flat.

7.1. The Ld.AR submitted that the assessee was residing in a bungalow having a built-up area of approximately 300 sq. metres, situated on a plot of land measuring 877.93 sq. metres. It was submitted that the assessee belonged to a joint family and, having regard to the residential requirements of the family, required a larger residential accommodation. Upon the transfer of the aforesaid land and building, the assessee purchased two adjoining residential flats on the same date, having a combined area of approximately 530 sq. metres, with the intention of using them as a single residential unit.

7.2. The Ld.AR further contended that, under the provisions of section 54 of the Act applicable to the assessment year under consideration, there was no statutory restriction limiting the exemption to investment in only one residential unit. It was submitted that the restriction concerning investment in more than one residential house was introduced by the Finance (No. 2) Act, 2014, with effect from 01.04.2015, and was therefore not applicable to the year under consideration. Accordingly, the Ld. AR submitted that the deduction could not be restricted merely because the investment was made in two adjoining flats, particularly when both were intended to constitute a single residential accommodation.

7.3. The Ld.DR, on the other hand, relied upon the orders of the authorities below and supported the restriction of the deduction to the investment made in one residential flat.

We have perused the submissions advanced by both the sides in the light of records placed before us.

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8. On consideration of the rival submissions and perusal of the material available on record, we find that the provisions of section 54 of the Act, as applicable to the assessment year under consideration, did not contain the express restriction that the investment must be made in "one residential house in India". The expression "a residential house" was interpreted by various *High Courts*, having regard to the facts of the respective cases, to permit exemption in respect of more than one residential unit where the units constituted a single residential house in substance or were interconnected and used as one residential unit.

8.1. In this regard, we draw support from the decisions of the *Hon'ble Karnataka High Court* in case of *CIT v. D. Ananda Basappa* reported in *(2009) 309 ITR 329* and decision of *Hon'ble Delhi High Court* in *CIT v. Geeta Duggal* reported in *(2013) 357 ITR 153*. These decisions recognise that the expression "a residential house" is not necessarily confined to a single independent physical unit and that the nature and use of the residential accommodation must be considered in the facts and circumstances of each case.

8.2. We further note that the restriction relating to investment in more than one residential house was introduced by the Finance (No. 2) Act, 2014, with effect from 01.04.2015. The said amendment is not applicable to the assessment year 2012-13 under consideration. The assessee's claim must, therefore, be examined with reference to the statutory provisions applicable to the relevant assessment year and the judicial interpretation prevailing thereunder.

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8.3. In the present case, the assessee was earlier residing in a bungalow having a built-up area of approximately 300 square metres, situated on a plot measuring 877.93 square metres. The Ld.AR has explained that the assessee was residing in a joint family and required adequate residential accommodation for its members. Upon transfer of the said property, the assessee purchased two adjoining residential flats on the same date, having a combined area of approximately 530 square metres, with the intention of using them as a single residential accommodation. The Revenue has not disputed that the flats are adjoining. These circumstances lend support to the assessee's contention that the investment was made to acquire residential accommodation commensurate with the requirements of the family.

8.4. In our considered view, the claim cannot be rejected merely on the ground that the investment was made in two adjoining flats, without examining the nature of the residential accommodation acquired and the assessee's intention to use the same as one residential house. Having regard to the statutory provisions applicable to the assessment year under consideration, the judicial precedents referred to above, and the facts placed on record, we find merit in the assessee's claim.

8.5. We, accordingly, direct the Ld.AO to allow the deduction under section 54 of the Act in respect of the investment of ₹3,35,36,982/- made in the purchase of both residential flats, subject to verification of the actual investment, satisfaction of the other statutory conditions and the computation of the eligible capital gains in accordance with law. The Ld.AOshall give effect to this

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finding while recomputing the capital gains for the year under consideration.

Accordingly, the assessee's ground challenging the restriction of deduction under section 54 is allowed, subject to the aforesaid verification.

Grounds relating to computation of capital gains

9. The assessee has also raised grounds challenging the computation of capital gains. We direct the Ld.AO to recompute the capital gains in accordance with law, having regard to the findings recorded hereinabove, including the allowable indexed cost of acquisition of the land and building and the deduction admissible under section 54 of the Act.

Accordingly, the grounds relating to computation of capital gains are allowed for statistical purposes, subject to the directions recorded above.

In the result, appeal filed by the assessee stands allowed.

Order pronounced in the open court on 16.10.2026.

Sd/-	**Sd/-**
ARUN KHODPIA	**BEENA PILLAI**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Mumbai

Dated: 16 /10/2026

Kunal Kr. p.s.

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Copy to:

1	**RENU ARUN TALWAR, 7, SWASTIK SOCIETY , NORTH SOUTH ROAD NO. 1 JUHU JVPD SCHEME, MUMBAI-400056, MAHARASHTRA**
2	**CIRCLE 17(1), MUMBAI, KAUTILYA BHAVAN, MUMBAI, MUMBAI, MUMBAI-400051, MAHARASHTRA**
3	THE PCIT / CIT,
4	THE D.R., ITAT, MUMBAI BENCH
5	GUARD FILE

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I.T.A.T., MUMBAI**

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