IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER&
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA No. 599/MUM/2026 (A.Y.: 2021-22)
(Physical hearing)

Deputy Commissioner of Income Tax-6(1)(2), Mumbai Room No. 506, 5th Floor, Aayakar Bhavan, M.K. Road, Churchgate, Mumbai-400020. **PAN : AAHPM7493G**	*Vs*	**Amit Mahendrakumar Mehta** 92, Casa Geande, Co-operative Housing Society Ltd., 22, K.S. Tayyabji Marg, Malabar Hill, Mumbai 400006.
Appellant /Revenue		Respondent /Assessee

Assessee by	Shri. V.G. Ginde & Shri Kumar Kale, Advocates.
Revenue by	Shri. Surendra Mohan, Sr.DR
Date of hearing	19.05.2026
Date of pronouncement	17.08.2026

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by the revenueis directed against the order of ld. Commissioner of Income Tax (Appeals), [for short "CIT(A)"] dated 11.11.2025, for the assessment year 2021-22. The revenue has raised following grounds ofappeal:-

> *"(i)On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in admitting and relying upon additional evidence, including the Supplementary Agreement dated 25.03.2022 and bank statements, without satisfying the stringent conditions laid down under Rule 46A of the Income Tax Rules, 1962 and thereby the Ld. CIT(A) failed to appreciate that the Assessing Officer had provided more than six months and multiple opportunities (via notices u/s 143(2) and 142(1)) which the assessee neglected, and making the submission of new documents at the appellate stage an inadmissible afterthought.*
>
> *2. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in allowing deduction for investment in Flat No. 3101, despite the fact that the primary purchase agreement and registration were in the names of Mrs. Cherry Mehta and Mr. Harsh Amit Mehta, and not the*

appellant and thereby the Ld. CIT(A) failed to recognize that the legal ownership of the new asset must vest with the assessee to qualify for exemption, and a subsequent 'Supplementary Agreement' cannot be used to retrospectively shift ownership for the sole purpose of claiming tax benefits.

3. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in granting deduction u/s 54 and 54F for what are legally two distinct residential units and thereby the Ld. CIT(A) failed to appreciate the proviso to Section 54(1) (applicable from AY 2021-22), which restricts the claim for two houses only to cases where the Capital Gain does not exceed Rs. 2.00 Crores and as the appellant's gains exceeded this threshold, the AO was right in restricting the deduction to a single legal unit (Flat No. 3102) purchased in the appellant's name.

4. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in relying on judicial precedents regarding 'amalgamated units without appreciating that in those cases, the funding and legal title usually vested with the assessee, whereas in the present case, the clear bifurcation of payments and title between the appellant and his family members at the time of initial acquisition distinguishes it from the cited case laws."

5. The appellant (Revenue) craves leave to add, amend, alter, or withdraw any of the above grounds of appeal at or before the time of hearing.

2. Brief facts of the case are that assessee is an individual, filed his return of income for assessment year (A.Y.) 2021-22 on 04.03.2022 declaring income of Rs. 3.83 Crores. Subsequently, the return was revised on 31.03.2022 declaring same income. The case was selected for scrutiny on account of large deduction/exemption under Section 54, 54B, 54EC and other similar deductions. During the assessment the Assessing Officer ('AO') noted that, the assessee has claimed deduction under Section 54 and 54F. On further perusal of record the AO noted that the assessee has sold the flat no. 92, 9th Floor and two garages on the ground floor of Casa Grande, 22, Little Gibbs Road, Malabar Hill, Mumbai to ABD Dwelling Private Ltd. On 17.12.2020 for a sale consideration of Rs. 43.00 Crores. The assessee purchased the said property on 28.06.2000 for a consideration of Rs. 5.65 Crores. The assessee computed long term capital gain by taking cost of

acquisition of this property of Rs. 16.40 Crores and computed long term capital gain of Rs. 26.59 Crores. The assessee invested the capital gain on purchase of another residential house for purchase consideration of Rs. 17.84 Crores at Lower Parel, Worli and claimed exemption under Section 54.

3. The assessee also claimed long term capital gain of Rs. 1.86 Crore on sale of equity shares. The assessee claimed exemption under section 54F on investment for purchase of property at Lower Parel, Worli at Rs. 22.56 Crores. On show-cause notice the AO noted that the assessee filed certain details but failed to file purchase deed of these two properties. The AO recorded that the assessee furnished only copy of the Supplementary Agreement between the developer K. Raheja Private Ltd., and the assessee showing amalgamation of the properties. On perusal of such Supplementary Agreement, the AO recorded that the assessee purchased a flat with her wife (Cherry Mehta) hadpurchased 4 BHK Apartment, bearing flat No. 3101, admeasuring 2964 Square feet for consideration of Rs. 17.84 Crores. In the Supplementary Agreement, it was shown that the entire amount was paid by Smt. Cherry Mehta and her son (Harsh Amit Mehta). From Part B of the said agreement, it was noted that Amit M. Mehta (Assessee) and Mr. Harsh Amit Mehta (Son) purchased the flat no. 3102 admeasuring 2964 Square feet in the same building for consideration of Rs. 22.56 Crores. As per the agreement, the whole amount was paid by the assessee.

4. On the basis of details furnished by the assessee, the AO was of the view that the assessee is eligible for deduction in respect of one property purchased by him for Rs. 22.56 Crores and such benefit of Section 54 is available in respect of one flat. The AO by referring the provision of Section 54 of Income Tax Act, noted that on sale of property at Malabar Hill, theassessee earned long term capital gain of Rs. 26.59 Crores out of which the assessee has invested Rs. 22.57 Crores, thereby, remaining amount of Rs. 4.03 Crores is taxable long term capital gain.
5. The AO further noted that, the assessee sold equity shares of various companies for total consideration of Rs. 9.34 Crore against the cost of acquisition without indexation of Rs. 7.29 Crore, which resulted in long term capital gain of Rs. 2.09 Crore. The assessee claimed to have purchase a property being Flat No. 3101 from Raheja Developers claimed exemption under Section 54F of Rs. 1.86 Crores. The assessee invested such long term capital gain in the property which was purchased in the name of his wife and his son. Thereby, such deduction was of Rs. 1.86 Crores and was not allowed. Aggrieved by the additions/disallowances, the assessee filed an appeal before the CIT(A).
6. Before CIT(A), the assessee filed detailed written submissions as well as statement of facts. Before CIT(A), the assessee submitted that as per Clause 3 of the Supplementary Agreement dated 25.03.2022, both the flats were amalgamated and in the amalgamated flats the assessee was having 70% shares and remaining 30% of his wife Mrs. Cherry Amit Mehta. Such

position was explained before AO. The AO has not raised further query and straightaway disallowed the exemption under Section 54 of Rs. 4.03 Crores and disallowed entire claim under Section 54F.

7. On the submission of the assessee, the remand report was called from the AO. The AO furnished his remand report. In the remand report, the AO contended that, the assessee was given full opportunity during the assessment. The assessee has not produced paper-book consisting the required details. Now, the assessee has furnished such details which are in the form of additional evidence which should not be entertained. After objecting the admission of the additional evidence, the AO has given his remand report on merits. The AO stated that the assessee is eligible for benefit in respect of one property which is purchased by him for consideration of Rs. 22.56 Crores and for remaining unused long term capital gain the addition was made. Thus, the AO has rightly brought the amount of Rs. 4.03 Crores to tax. For remaining claim of exemption under Section 54F of Rs. 1.86 Crores, the AO has stated that he has rightly rejected such claim as the second property was purchased in the name of Cherry Mehta and her son and thus, the assessee is not eligible for deduction/exemption under Section 54F. The copy of the remand report was forwarded to the assessee for his comment. The assessee filed his comment in response to the remand report of the AO. The assessee in his objection, stated that the AO has not provided any specific comment in his explanation.

8. The Ld.CIT(A), after considering the assessment order and submissions of the assessee and the provisions of Rule 46A, recorded that the assessee furnished his explanation in support of the claim of the exemption under Section 54 and 54F. The assessee furnished Supplementary Agreement along with his letter. From the material placed before him, the ld CIT(A) recorded that material details of both the flats were given in the Supplementary Agreement. The Ld.CIT(A) by referring the decision of the Bombay High Court in the case of *Smt. Prabhavati Shah (1998) 231 ITR 1* wherein it was held that, if the *prima facie* evidence is necessary to examine the claim of the assessee, the CIT(A) should accepted the necessary evidence in exercise of his powers under Section 250(4) even if the case of the assessee does not fall within the four corners of the circumstances enumerated in Rule 46(A). The ld CIT(A) also relied on the decision of Delhi High Court in the case of CIT Vs. Virgin Securities and Credits Pvt. Ltd (2012) 20 taxmann.com 681/(2011) 332 ITR 396 (Delhi) wherein it was held that if the additional evidence is crucial and its consideration and appraisal would render substantial justice to the appellant, the same deserves to be admitted. On the basis of aforesaid legal position, the ld.CIT(A) admitted the additional evidence.
9. While considering the merits of the case against the partial disallowance of deduction under section 54 and entire disallowance of deduction under section 54F, the ld CIT(A) recorded thatthe assessee in his return of income claimed deduction under Section 54 and 54F and various other deductions.

The AO disallowed the claim of part of Section 54 and entire claim of 54F, in absence of the copy of sale deed in respect of both the flats. The AO on the basis of evidence held that, the assessee has not invested in two properties but only in one property that is in flat no. 3102 and allowed exemption of entire purchase consideration and remaining amount of Rs. 4.03 Crores was bought to tax. Similarly, the claim of exemption under Section 54F of Rs. 1.86 Crore was not allowed by taking view that second i.e. Flat No. 3101 was in the name of his wife and son.

10. The ld CIT(A) after considering the submissions of the assessee and the supplementary agreement dated 31.12.2020 recorded that the assessee entered in agreement with builder for purchase of flat no. 3102 for a total price of Rs. 22.56 Crore. The wife of assessee (CherryMehta) and son (Harsh Mehta) also entered in agreement with builder on 31.12.2020 for purchase of flat No. 3101 for a total consideration of Rs. 17.84 Crore. But subsequently both the flats were amalgamated into single residential flat by way of supplementary agreement dated 25.0.32022. In the supplementary agreement it was agreed that assesses share in the composite flat would be 70% and his wife of 30%. It was stated that the name of their son was added for convenience purpose, no investment was made by son. The assessee explained that entire investment in flat No. 3102 was made by assessee. Consideration of flat no. 3101 was paid by his wife, through her bank account. Out of total payment of Rs. 17.84 Crore, Rs. 5.44 Crore (Rs. 2.72 crore on 02.04.2021 and Rs. 2.72 Crore on 08.04.2921) was

transferred by assessee in his wife account and from her account payment were made to builder. The assessee also paid Rs. 1.15 Crore in respect of Flat No. 3101 from his bank account. Thus, the assessee made investment of Rs. 6.59 Crore in flat No. 3101 and remaining of Rs. 11.60 Crore by his wife. On the basis of payment pattern the ld CIT(A) noted that in the composite flat the share of assessee and his wife is 71.83% and 28.17% respectively. Till the date of filing return of income for the impugned assessment year the assessee made total investment of Rs. 28.45 Crore in the composite flat. The ld CIT(A) also scanned the relevant clause of supplementary agreement dated 25.03.2022 with builder, wherein the share of assessee and his wife is mentioned as 70% and 30% respectively. The ld CIT(A) specifically recorded that supplementary agreement dated 25.03.2022 is duly registered with Sub-registrar concerned. On the basis of such observation the ld CIT(A) accepted that the two flats were purchased as a composite flat from builder. The ld CIT(A) by referring the decision of Tribunal in Nakul Agarwal Vs ACIT in ITA No. 2551/Mum/2024 and Pune Tribunal in Anita Mahindrakumar Oberai Vs ITO in ITA No. 200/Pun/2020, wherein two houses which were adjoining and purchased together were treated single unit. The ld CIT(A) on making reliance on such decisions held that the assessee rightly claimed the deduction of Rs. 26.59 Crore under section 54 and of Rs. 1.86 crore under section 54F and allowed appeal of the assessee. Aggrieved by the order of ld CIT(A), the revenue has filed present appeal before Tribunal.

11. We have heard the rival submissions of both the parties and have gone through the orders of lower authorities carefully. The ld Senior departmental representative (Sr DR) for the revenue submits that the Ld. CIT(A) committed erred in admitting additional evidence, including the Supplementary Agreement dated 25.03.2022 and bank statements, without satisfying the stringent conditions laid down under Rule 46A of the Income Tax Rules, 1962. The assessee was allowed full opportunity during the assessee, and no case was made out by the assessee for admission of additional evidence. On merits of the additions, the ld Sr DR for the revenue submits that the Ld. CIT(A) erred in allowing deduction for investment in Flat No. 3101, despite the fact that the primary purchase agreement and registration were in the names of Mrs. Cherry Mehta and Mr. Harsh Amit Mehta, and not in the name of assessee. The Ld. CIT(A) failed to recognize that the legal ownership of the new asset must vest with the assessee to qualify for exemption, and a subsequent 'Supplementary Agreement' cannot be used to retrospectively shift ownership for the sole purpose of taking benefits of tax. It was argued that deduction under section 54 and 54F are legally two distinct residential units and thereby the Ld. CIT(A) failed to appreciate the proviso to Section 54(1) (applicable from AY 2021-22), which restricts the claim for two houses only to cases where the Capital Gain does not exceed Rs. 2.00 Crores and gains exceeded this threshold limits, the AO was right in restricting the deduction to a single legal unit (Flat No. 3102) which is in the name of assessee. Further, the

Ld. CIT(A) erred in relying on judicial precedents regarding 'amalgamated units without appreciating that in those cases, the funding and legal title usually vested with the assessee, whereas in the present case, the clear bifurcation of payments and title between the appellant and his family members at the time of initial acquisition was of two flats. The ld SR DR for the revenue prayed to reverse the finding of ld CIT(A) and to restore the finding of AO. In alternative, the ld Sr DR for the revenue prayed to restore the matter back to the file of AO to consider the additional evidence afresh.

12. On the other hand, the ld AR of the assessee supported the order of ld CIT(A). Against the ground no. 1 which relates to violation of Rule 46A, the ld AR of the assessee submits that there is no violation of Rule 46A. The evidence in the form of supplementary agreement which was filed again before ld CIT(A), was available before AO. Thus, factually it was not in the nature of additional evidence. Otherwise, the ld CIT(A) admitted evidence after following due process of law. The AO was allowed opportunity to file his remand report. Admittedly, remand report was filed by AO before ld CIT(A). The ld CIT(A) while admitting additional facts and evidence clearly held that the evidences which are vital and crucial for adjudication of issue. The reasoning of ld CIT(A) is duly supported by the decision of Bombay and Delhi High Court as recorded in his order. Thus, there is no violation of Rule 46A. On merit, (Ground No. 2 to 4) the ld AR of the assessee supported the order of ld CIT(A). The ld AR of the assessee submits that ld CIT(A) allowed relief on the basis of proper appreciation of facts. In

fact,the assessee vide registered supplementary agreement purchased composite flat which bears Flat No. 3102. There is only one residential unit having one entry and one kitchen. On amalgamation of both the flats, the flat No. 3101 lost its identity. As per clause No. 2(c) of supplementary the carpet area of flat no. 3102 is now 6769 square feet and purchased consideration is of Rs. 40.40 Crore. Due to amalgamation of flats the area is increased by 9.66 square meter, on which the assessee paid additional stamp duty. The ld AR of the assessee prayed for dismissal of appeal of revenue.

13. We have considered the rival submissions of both the parties. We have also deliberated on the case laws relied by the ld CIT(A) while passing the order which is impugned before us. Ground No. 1 relates admission of additional evidence in violation of Rule 46A. We find that ld CIT(A) before considering the additional facts and evidence allowed the AO to furnish his remand report. The AO furnished his remand report. We also find that ld CIT(A) while considering alleged additional held that if the prima facie evidence is necessary to examine the claim of the assessee, it shouldbe acceptedin exercise of his powers under Section 250(4), even if the case of the assessee does not fall within the four corners of the circumstances enumerated in Rule 46(A). The ld CIT(A) relied on the decision of Delhi High Court in the case of CIT Vs. Virgin Securities and Credits Private Ltd (supra) and held allegedadditional evidence is crucial and its consideration and appraisal would render substantial justice to the assessee and was

admitted for his consideration. Hence, we find that there is no infirmity or illegality in the order of ld CIT(A) in considering such alleged additional evidence. Thus, we affirm the order of ld CIT(A) to that extent. In the result, ground No. 1 of the appeal is dismissed. Now adverting the merits of the case.

14. Ground No 2 to 4 relates the deleting the disallowance of exemption/ deduction under section 54 & 54F. We find that the AO made disallowance of deduction under section 54 and 54F by holding that the assessee is eligible for deduction in respect of one property purchased by him for Rs. 22.56 Crores and such benefit of Section 54 is available in respect of one flat. We find that the AO by referring the provision of Section 54 of Income Tax Act, noted that on sale of property at Malabar Hill, the assessee earned long term capital gain of Rs. 26.59 Crores out of which the assessee has invested Rs. 22.57 Crores, he thereby, disallowed remaining amount of Rs. 4.03 Crores and brought to tax under long term capital gain. The AO held assessee earned long term capital gain on sale of shares. The assessee claimed deduction under section 54F against purchase a property being Flat No. 3101 from Raheja Developers of Rs. 1.86 Crores. The flat No. 3101 is in the name of his wife and his son. Thereby, the AO disallowed deduction of long-term capital gain of Rs. 1.86 Crores. We find that before AO as well as before ld CIT(A) the assessee strongly relied on the supplementary registered agreement wherein the assessee and the builder agreed to convert two adjacent flat in to a

composite flat and ultimately flat No. 3102 remained in existence and flat No. 3101 lost its existence. We also find that ld CIT(A) on considering the supplementary registered agreement31.12.2020 held that the assessee entered in agreement with builder for purchase of flat no. 3102 for a total price of Rs. 22.56 Crore. Further, the wife of assessee (Cherry Mehta) and his son (Harsh Mehta) also entered in agreement with builder on 31.12.2020 for purchase of flat No. 3101 for a total consideration of Rs. 17.84 Crore. However, subsequently both the flats were amalgamated into single residential flat by way of supplementary agreement dated 25.0.32022. it was held that as per supplementary agreement it was agreed that assesses share in the composite flat would be 70% and his wife of 30%. Entire investment in flat No. 3102 was made by assessee. Consideration of flat no. 3101 was paid by his wife, through her bank account. Out of total payment of Rs. 17.84 Crore, Rs. 5.44 Crore (Rs. 2.72 crore on 02.04.2021 and Rs. 2.72 Crore on 08.04.2921) was transferred by assessee in his wife account and from her account payment were made to builder. The ld CIT(A) also find that the assessee also paid Rs. 1.15 Crore in respect of Flat No. 3101 from his bank account. The assessee made investment of Rs. 6.59 Crore in flat No. 3101 and remaining of Rs. 11.60 Crore by his wife. On the basis of payment pattern the ld CIT(A) noted that in the composite flat the share of assessee and his wife is 71.83% and 28.17% respectively. It was held that till the date of filing return of income for the impugned assessment year the assessee made total investment of

Rs. 28.45 Crore in the composite flat. We find that the ld CIT(A) also scanned the relevant clause of supplementary agreement dated 25.03.2022 with builder, and accepted the fact that the share of assessee and his wife is mentioned as 70% and 30% respectively. The ld CIT(A) specifically recorded that supplementary agreement dated 25.03.2022, which is duly registered with Sub-registrar concerned. We also find that the ld CIT(A) accepted that the two flats were purchased as a composite flat from builder. The ld CIT(A) on making reliance on such decisions of Mumbai and Pune Tribunal held that the assessee rightly claimed the deduction of Rs. 26.59 Crore under section 54 and of Rs. 1.86 crore under section 54F and allowed appeal of the assessee.

15. On our independent appreciation of facts, we find that entire investment in flat No. 3102 was made by assessee. Part of unamalgamated flat no. 3101 was paid by his wife, through her bank account. Out of total payment of Rs. 17.84 Crore, Rs. 5.44 Crore (Rs. 2.72 crore on 02.04.2021 and Rs. 2.72 Crore on 08.04.2921) was transferred by assessee in his wife account and from her account payment were made to builder. The assessee made investment of Rs. 6.59 Crore in flat No. 3101 and remaining of Rs. 11.60 Crore by his wife. We also find that after supplementary agreement the assessee acquire composite flat bearing no. 3102. As per clause No. 2(c)& (e) of supplementary the carpet area of flat no. 3102 is now 6769 square feet and purchased consideration is of Rs. 40.40 Crore. Further, due to amalgamation area of the flat is increased by 9.66 square meter, on which

the assessee paid additional stamp duty and that flat No. 3101 has lost its existence. No verification of facts was carried out by the AO to discard such facts. Thus, in view of the above factual position, we do not find any infirmity in the order of ld CIT(A), which we affirm. In the result, grounds No. 2 to 4 of the appeal are also dismissed.

16. In result, the appeal of revenue is dismissed.

Order pronounced in open Court on 17.08.2026

Sd/-
GIRISH AGRAWAL
ACCOUNTANT MEMBER

Sd/-
PAWAN SINGH
JUDICIAL MEMBER

Mumbai, Dated: 17/08/2026
Aditi Pandare, PS/
Biswajit Sr PS

Copy of the order forwarded to:

(1) The Assessee;
(2) The Revenue;
(3) The PCIT / CIT (Judicial);
(4) The DR, ITAT Mumbai and
(5) Guard file.

By Order

Assistant Registrar ITAT, Mumbai