

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"C" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT &  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

ITA No.1358/Ahd/2026  
(Assessment Year: 2016-17)

Ashvinkumar Joitaram Patel, B-7, Mayurpankh Society, Nr. Umiya Vijay Bus Stand, Ahmedabad-380015.  [PAN :ANLPP3077 E]	Vs.	The Income Tax Officer, Ward 3(3)(1) Ahmedabad.
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri Rupesh Mehta, AR
<b>Respondent by:</b>	Shri Abhijit, Sr. DR

<b>Date of Hearing</b>	08.06.2026
<b>Date of Pronouncement</b>	17.06.2026

**ORDER**

**PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-**

This appeal is filed by the Assessee against the appellate order dated 15.07.2025 passed by the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, Delhi, relating to the Assessment Year 2016-17.

2. The assessee has raised the following grounds of appeal:

*1. On the facts and circumstances of the case, Ld. CIT(A) erred in not accepting the conclusion drawn in the remand report Dt. 27/02/2020 which was submitted after due verification and through proper channel. I therefore humbly request honorable Court to accept the remand report and allow the deduction rightly claimed u/s 54B by your appellant.*

- 2-

*2. On the facts and circumstances of the case, the Ld. CIT (A) erred in law and facts in holding agriculture land as non-agricultural land and thereby disallowing the claim made u/s 54B of the IT Act vide page no. 24 para 5.3.8. 1. therefore, humbly request Hon'ble Court to accept the land sold as an agriculture land and allow the deduction claimed by your appellant.*

*3. On the facts and circumstances of the case, the Ld. CIT (A) erred in law and facts in holding that Urban agricultural land ie. Land situated within 8 Km. of Municipality area is not eligible for the claim of deduction u/s 54B of the IT Act vide page no. 24 para 5.3.9. 1, therefore, humbly request Hon'ble Court to held that an urban agriculture land is also eligible for claim of deduction u/-54B and thereby allow the claim made by your appellant.*

*4. On the facts and circumstances of the case, the Ld. CIT (A) erred in law and facts in holding that "the phrase "whether capital gains/loss on sale of property has been correctly shown" is comprehensive enough to include evaluation of the claim of exemption" on page no.9 para no.4.4.3 of the aforesaid Appeal order. Since your appellant case was selected for limited scrutiny and verification of claim of Exemption was never a part of scrutiny, disallowance of the deduction claimed u/s.54B without taking any prior approval of higher Authority is not permissible. Your Appellant therefore requests Hon'ble Court to delete the disallowance of deduction claimed by your appellant u/s.54B on this ground.*

*5. Your appellant craves leave to add, alter, amend, and/or delete any grounds as mentioned above during the course of appeal hearing*

3. Brief facts of case are that assessee has sold urban agriculture land situated within 8 km of the municipal area and subsequently claimed deduction u/s. 54B of the Act, which the Assessing Officer denied. Aggrieved by the order of the Assessing Officer, the Assessee filed appeal before the Ld. CIT(A) who upheld the order of the Assessing Officer.

4. Aggrieved by the order of the Ld. CIT(A), the Assessee filed appeal before the Tribunal.

5. Heard the arguments of both the parties and perused the material available on record.

6. We find the remand report of the Assessing Officer called by the Ld.CIT(A) on record. For the sake of ready reference, the said remand report submitted by the Assessing Officer in response to the direction given by the Ld. CIT(A) is reproduced below:

*"...3 As directed, I have verified additional evidences and submitting my comments on the same which is produced hereunder.-*

*In this regard, vide this office letter dated 19/02/2020 the assessee was granted an opportunity to submit details/ explanation in support of its additional evidences submitted under Rule 46A of the Act. In this regard, the Shri Rupesh Mehta, AR of the assessee attended.*

*In this case, as the assessee failed to furnish any evidence regarding cultivation of land during the last three consecutive years and the land in question being within the limit of 8 Kms from the limit of Ahmedabad Municipality, the AO disallowed the claim of deduction u/s 548 of the Act in respect of Long term capital gain of Rs. 1,45,73,828/-.*

*The assessee has filed the appeal before the Ld.CIT(A) and has submitted the additional evidence under Rule 46A of IT Rules. On perusal of the additional evidence submitted by the assessee, it is noticed that assessee has furnished copy of Affidavit of Shri Prahladji Shakraji Thakore, Agriculturist, who is cultivating the land of assessee shri Ashwinbhal Joitabhai Patel and he is giving 20% of gross crop to the assessee towards using land for agricultural purpose. The assessee has also furnished the copy of bills/ invoices of purchase of seeds/ fertilizers/ pesticides/ urea which has been purchased during FY 2011-12. 2012-13 2013-14 & 2014-15 to substantiate his claim said land was used by the assessee for agricultural purpose before two years immediately preceding the date of transfer*

***On going through the additional evidence submitted by the assessee, it can be construed that the immediately preceding to the date of transfer the agricultural and farming activities were***

***carried out in the said land and after selling the said agriculture land, the assessee purchased agriculture land at the consideration of Rs. 1,59,68,612/- for which the assessee claimed the deduction u/s 54B of the Act to the tune of LTCG of Rs. 1,45,73,828/-***

*4. In view of the above facts, it is submitted that the additional evidences submitted by the assessee may be considered and appeal in the case of the assessee may kindly be decided on merits, if your honour may consider it deem fit..."*

7. We have also carefully gone through the assessment order, the impugned order passed by the learned CIT(A), the remand report dated 27.02.2020 and the additional evidences placed before the authorities below. It is an undisputed fact that the Assessing Officer, in the remand proceedings, had examined the additional evidences furnished by the assessee under Rule 46A of the Income Tax Rules, 1962. On such examination, the Assessing Officer noted that the assessee had furnished an affidavit of Shri Prahladji Shakraji Thakore, an agriculturist cultivating the land of the assessee and sharing 20% of the gross crop with the assessee, besides copies of bills and invoices relating to purchase of seeds, fertilizers, pesticides and urea for the financial years 2011-12 to 2014-15. Upon verification of these evidences, the Assessing Officer himself concluded in the remand report that agricultural and farming activities were carried out on the land during the period immediately preceding the date of transfer and that, after sale of the said land, the assessee had purchased another agricultural land for a consideration of Rs.1,59,68,612/- against which

deduction under section 54B amounting to Rs.1,45,73,828/- had been claimed.

7.1 Once the Assessing Officer, after due verification and through proper channel, accepted the additional evidences and recorded a categorical finding that the land was used for agricultural purposes and that the conditions prescribed under section 54B of the Act stood fulfilled, the learned CIT(A) was not justified in disregarding such findings without bringing any contrary material on record. In our considered opinion, the findings recorded in the remand report clearly support the claim of the assessee and there is no material available on record to disbelieve the same.

7.2 We also find force in the contention of the assessee that the case was selected for limited scrutiny and that the issue relating to the allowability of exemption under section 54B was not one of the reasons for selection. However, in view of our finding on merits in favour of the assessee, we do not deem it necessary to adjudicate the legal ground relating to the scope of limited scrutiny, the same being rendered academic.

7.3 Considering the entirety of facts and circumstances of the case, particularly the categorical findings recorded by the Assessing Officer in the remand report dated 27.02.2020, we hold that the assessee is entitled to deduction under section 54B of the Act amounting to Rs.1,45,73,828/-.

7.4 Had the Ld. CIT(A) considered the remand report, the addition would not have been sustained even by the Ld. CIT(A). The

- 6 -

disallowance made by the Assessing Officer and sustained by the Ld.CIT(A) is, therefore, directed to be deleted. Accordingly, the grounds raised by the assessee are allowed.

8. In the result, the appeal of the assessee is allowed.

**The order is pronounced in the open Court on 17.06.2026.**

**Sd/-  
(RAHUL CHAUDHARY)  
JUDICIAL MEMBER**

**Sd/-  
(DR. B.R.R. KUMAR)  
VICE-PRESIDENT**

(True Copy)

Ahmedabad; Dated 17.06.2026  
MV

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

**आदेशानुसार / BY ORDER,**

**सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad**