

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI PARESH M JOSHI, JUDICIAL MEMBER**

**ITA No.733/Ind/2024 (AY: 2018-19)**

Amarjeet Singh Bhatia, House No.63 Panchwati, Janki Nagar, Indore <b>(PAN: CJCPB5689P)</b>	<b><u>बनाम/</u></b> Vs.	Income Tax Officer 2(1), Indore
(Appellant)		(Revenue)
Assessee by	Shri Soumya Bumb, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	06.05.2025	
Date of Pronouncement	08.05.2025	

**आदेश / O R D E R**

**Per Paresh M Joshi, J.M.:**

This is an appeal filed by the assessee Under Section 253 of the Income Tax Act, 1961 (hereinafter referred to as the "**Act**" for sake of **brevity**) before this Tribunal as and by way of Second appeal under the Act. The assessee is aggrieved by the order bearing Number ITBA/NFAC/S/250/2024-25/1067655540(1) dated 14.08.2024 which was passed by the Ld. CIT(A) u/s 250 of the Act which is hereinafter referred to as the "**Impugned order**". The relevant Assessment Year is 2018-19 and the corresponding previous year period is from 01.04.2017 to 31.03.2018.

2.

**FACTUAL MATRIX**

2.1 That as and by way of an assessment order made u/s 147 r.w.s. 144 of the Act, the assessee's total assessed income was computed at Rs.1,10,00,000/-. It is required to be noted that assessee had not filed any return of income. Addition was thus made to NIL return of income (as not filed). That the assessment order bears No.ITBA/AST/S/147/2022-23/1051016841(1) and is dated 20.03.2023 which was passed u/s 147 r.w.s. 144 of the Act which for sake of convenience and brevity is hereinafter referred to as **"impugned assessment order"**.

2.2 That the assessee being aggrieved by the aforesaid **"impugned assessment order"** prefers first appeal u/s 246A of the Act before Ld. CIT(A) who by the **"impugned order"** has dismissed the appeal of the assessee on grounds stated therein.

2.3 That the assessee being aggrieved by the **"impugned order"** has preferred the present appeal before this Tribunal and has raised following grounds of appeal in Form No.36 against the "impugned order" which are as under:-

*"1. On the facts and circumstances of the case and in law, learned CIT (Appeals), erred in exparte dismissing the appeal without giving consideration to the submissions made by the*

*appellant. The appellant prays that the said order is illegal, invalid and bad in law and be set aside to the file of A.O.*

*2. On the fact and circumstances of the case and in law, learned A.O. erred in treating the sale of property under Short term capital gain is unjustified. The Appellant prays that the order to be set aside to the CIT(A) for hearing on merits.*

*3. On the fact and circumstances of the case and in law, learned A.O. erred in making addition of Rs.1,10,00,000/- under Section 45 of the Act. The Appellant prays that the said addition be directed to be deleted.*

*4. The learned A.O. erred in not considering the not granting credit of indexed cost of acquisition. The Appellant prays that the addition so made be directed to be deleted.*

*5. On the fact and circumstances of the case and in law, learned A.O. (A) erred in not granting credit of indexed cost of improvement. The Appellant prays that the addition so made be directed to be deleted.*

*6. On the fact and circumstances of the case and in law, learned A.O. erred in not granting credit of TDS of Rs. 1,10,000/-. The Appellant prays that the credit of TDS deducted be allowed.*

*7. The Appellant craves leave to add to alter and/or amend all or any of the foregoing grounds of appeal”.*

3. Record of Hearing

3.1 The hearing in the matter took place before this Tribunal on 06.05.2025 when the Ld. AR for and on behalf of the assessee appeared before us and interalia submitted and contended that the “**impugned assessment order**” is u/s 147 r.w.s. 144 of the Act. The Ld. AR stated that entire value of immovable property is taken into consideration even in best judgment u/s 144 of the

Act. Further this aspect too is ignored by Ld. CIT(A) even in an ex parte order. The Ld. AR has undertaken before us that if opportunity is granted cost of acquisition would be shared with Ld. A.O to arrive at the correct assessable income of the assessee. The Ld. AR has undertaken to participate in the proceedings before Ld. A.O if this Tribunal is kind enough to remand the matter.

3.2 Per contra Ld. DR for and on behalf of the revenue inter alia has contended that more or less he conquers with the views expressed by Ld. AR for assessee. The Ld. DR however finally left the issue with this Tribunal to take appropriate call according to law.

4. **Observations, findings & conclusions.**

4.1 We now have to decide the legality, validity and the propriety of the **"Impugned Order"** basis records of the case and rival contentions canvassed before us.

4.2 We have carefully perused the records of the case.

4.3 We basis records of the case and after hearing and upon examining the contentions are of the considered opinion that the

“**impugned order**” has just not examined the merits so also “**impugned assessment order**”. We are of the considered view that both at the original stage as well as the 1<sup>st</sup> appellate stage there should be meritorious disposal of the case as income is required to be computed accordingly to law and so also taxes thereon. The assessee is to be blamed too as he has remained non compliant both at original stage as well as at appellate stage. However due to peculiar facts and circumstances of the present case which involves calculation of capital gain whether short or long basis original cost of acquisition of immoveable property since that has remained absent due to fault of assessee nevertheless it would be just prudent and in the interest of justice that “**impugned order**” be set aside and matter be remanded back to Ld. A.O to pass a suitable fresh order on *denovo basis*.

### Order

5.1 In the premises we set aside the “**impugned order**” as and by way of remand back to the file of Ld. A.O on *denovo basis* to enable him to file a fresh order subject however to assessee cooperating with the department. Assessee is directed not seek

any unnecessary adjournment and to cooperate with revenue. The assessee is further directed to place all material information to Ld. A.O before completion of assessment. The assessee to note that this opportunity is granted in view of undertaking given by Ld. AR during hearing held on 06.05.2025 in open court.

5.2 Appeal allowed for statistical purpose.

**Order pronounced in open court on 08.05.2025.**

Sd/-

**(BHAGIRATH MAL BIYANI)**  
**ACCOUNTANT MEMBER**

Indore

दिनांक/ Dated : 08/05/2025

Dev/Sr. PS

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

Sd/-

**(PARESH M JOSHI)**  
**JUDICIAL MEMBER**

By order  
Senior Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore