

|आयकर अपीलीय न्यायाधिकरण न्यायपीठ, मुंबई|
IN THE INCOME-TAX APPELLATE TRIBUNAL “J (SMC)” BENCH,
MUMBAI
BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SMT. RENU JAUHRI, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2406/MUM/2025
(निर्धारण वर्ष/Assessment Year: 2015-16)

Urvi Hitalkumar Patel B 1101, Shreenath Tower, Shankar Lane, Kandivali West 400067	v/s. बनाम	Income Tax Officer, Ward 33(1)(1), Mumbai Kautilya Bhavan, G Block, BKC, Bandra East 400051.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: CEVPP8858L		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

निर्धारिती की ओर से /Assessee by:	Shri Manish Sheth
राजस्व की ओर से /Revenue by:	Shri Asif Karmali (SR DR)

सुनवाई की तारीख / Date of Hearing	14.07.2025
घोषणा की तारीख/Date of Pronouncement	31.07.2025

आदेश / O R D E R

PER RENU JAUHRI [A.M.] :-

This appeal is filed by the assessee against the order of the National Faceless Appeal Centre (NFAC) - Delhi, 24.03.2025 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for Assessment Year: 2015-16.

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

“1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A)-NFAC-Delhi, erred in confirming the initiation of reassessment proceedings by the ld. AO which was in violation of section 149(1)(b) of The Income Tax Act 1961, since the assessment is barred by the limitation.

2. On the facts and in the circumstances of the case and in law, the Ld. CIT(A)-NFAC ought to have considered that, the Ld. Assessing Officer was well aware that the flat was for an agreement value of Rs. 33,12,500/- whose stamp duty value is Rs. 37,26,000/- which is well below the limit of Rs. 50,00,000/- set by section 149(1)(b) for initiating reassessment proceedings beyond the period of 3 years.

3. The assessee craves Your Honour's leave to add, alter or amend or delete any of the above grounds."

3. Brief facts of the case are that the assessee did not file return for AY 2015-16 as she had no taxable income during the relevant financial year. From the information available with the department, Ld. AO noticed that the assessee had purchased a residential flat for a consideration of Rs. 33,12,500/- during the year of which the stamp duty valuation was made at Rs. 37,26,000/-. Accordingly, a notice u/s. 148A(b) was issued by the AO on 30.03.2022 for the escapement of income on account of purchase of two immovable properties for Rs. 33,12,500/- and Rs. 37,26,000/- during the period under consideration. Since no compliance was made to the notice and also during subsequent proceedings, Ld. AO proceeded to complete the assessment u/s. 147 r.w.s 144 r.w.s. 144B of the Act on 21.02.2024 at an income of Rs. 37,26,000/- being unexplained money u/s. 69 of the Act which was utilised in the purchase of the immovable property. Aggrieved with the order of Ld. AO, the assessee preferred an appeal before the Ld. CIT(A), wherein, besides the ground on merits, the assessee also challenged the initiation of reassessment proceedings on legal ground claiming that the same was in violation of Section 149(1)(b) of the Act. Vide order dated 24.03.2025 Ld. CIT(A) up held the initiation of proceedings u/s. 148 of the Act with the following observations:

"5.8 It is amply clear from the facts on record that at the time of issue of notice u/s 148A(b) and u/s 148 of the Act, the Assessing Officer was in possession of evidence which revealed that income chargeable to tax, represented in the form of immovable

properties, which had escaped assessment was likely to amount to more than Rs.50,00,000/- (or morespecifically Rs.70,38,500/-). The Assessing Officer had accordingly given a categorical finding that the condition specified in Section 149(1)(b) of the Act was satisfied in the case.

5.9. The appellant's contention that issue of notice u/s 148 of the Act in the instant case was barred by limitation as the Assessing Officer made an addition in respect of 5.9 only one immovable property (whose purchase consideration was less than Rs.50,00,000/-) in the impugned assessment order is not acceptable because the threshold limit specified in Section 149(1)(b) of the Act is not with regard to the quantum of assessed income. The likely amount of income which had escaped assessment as ascertained from available evidence was required to be compared with the threshold limit of Rs.50,00,000/- stipulated therein. In the appellant's case, the condition of such likely escapement of income exceeding the threshold limit was very much satisfied.”

4. On merits, Ld. CIT(A) directed the AO to examine the issue afresh after giving opportunity to the assessee and to frame a de-novo assessment. Aggrieved with the order of Ld. CIT(A), the assessee has preferred an appeal before the Tribunal. It is the contention of the assessee that the initiation of reassessment proceedings, being in violation of Section 149(1)(b) of the Act, is void ab-initio in view of the fact that the Ld. AO was aware that the flat was purchased for Rs. 33,12,500/-, which was below the threshold limit of Rs. 50 lacs for initial of reassessment proceeding beyond 3 years.

5. We the heard the rival submissions and perused the material placed before us. Admittedly, as per the information available on the ITBA portal, the assessee had purchased a flat for a consideration of Rs. 33,12,500/- for which the stamp duty valuation was Rs. 37,26,000/-. Since the assessment year involved is AY 2015-16 and the notice was issued on 30.03.2022, as per the applicable provisions with effect from 01.04.2021, no notice could be issued beyond the period of 3 years unless the amount of income escaping assessment was more than Rs. 50 lacs. In the present case, Ld. AO has erroneously

mentioned in the reasons that the assessee had purchased two immovable properties for Rs. 33,12,500/- and Rs. 37,26,000/- which is not supported by the information available on the ITBA portal. Even at the time of assessment, Ld. AO has only considered one property. We are, therefore, of the view that the amount involved in the impugned transaction being much below Rs. 50 lacs, no notice u/s. 148 of the Act could be issued as more than 3 years has already elapsed. In view of these facts, the proceedings u/s. 148 of the Act are bad in law and are hereby quashed.

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

Order pronounced in the open court on 31.07.2025.

Sd/-

AMIT SHUKLA

(न्यायिक सदस्य/JUDICIAL MEMBER)

Sd/-

RENU JAUHRI

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 31.07.2025

दिव्या रमेश नांदगावकर/ स्टेनो

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

**सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलिय अधिकरण/
ITAT, Bench, Mumbai.**