

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

(HYBRID COURT)

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

I.T.A. No. 287/Asr/2023
Assessment Year: 2017-18

Income Tax Officer,
Ward 2(1), Amritsar

Vs.

Sh. Vikas Mehra
72-73, Joshi Colony,
The Mall P.O. GPO
Civil Lines, Amritsar
Punjab 143001

[PAN: AAWPM 5565A]

(Appellant)

(Respondent)

Appellant by : Sh. Jatinder Nagpal, Adv.
Respondent by : Sh. Charan Dass, Sr. D. R.
Date of Hearing : 23.07.2025
Date of Pronouncement : 07.08.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the Revenue against the order of the Id. CIT(A) NFAC, Delhi dated 11.08.2023 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the AO, Ward 5(4), Amritsar passed u/s 143(3) of the Act, 1961 dated 27.12.2019.

2. Grounds of appeal taken by the revenue in Form No. 36 are as follows:

- “1. *Whether on the facts and the circumstances of the case and in law, the CIT(A) has erred in deleting the addition of Rs. 2,46,99,200/ made by the Assessing Officer (AO) on account of increase in capital account from undisclosed sources, without appreciating the detailed facts that the assessee has increased the value of inherited properties without giving the reasons for enhancing the value at market rate.*
2. *Whether on the facts and the circumstances of the case and in law, the Id. CIT(A) was justified in deleting addition of Rs 2,46,99,200/- by holding that "there is no tax on inheritance in India", by ignoring the fact that the Id. CIT(A) has misread the provisions of section 49 which are very much clear on Cost with reference to certain modes of acquisition that the cost of the acquisition of the asset shall be deemed to be the cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of the assets incurred or borne by the previous owner or the assessee as the case may be in this instant case original value of acquisition along with the value of improvement is to be taken, regarding which assessee has not furnished any information*
3. *Whether on the facts and the circumstances of the case and in law, the Id CIT(A) has erred in deleting the addition of Rs. 2,46,99,200/- by holding that Section 49 under the head capital gains is not a charging section under the IT Act and there is no sale either..." ignoring the fact that the addition had been made by the AG on account of increase in capital under the head "undisclosed sources due to enhanced value adopted in the balance sheet of inherited properties on which no tax or reasons for adopting enhanced value had been explained by the assessee. The CIT(A) had not understood the issue in right perspective while deciding this appeal.*

The Appellant craves leave to add, amend or alter any ground of appeal.”

3. The revenue has taken three grounds in the memorandum of appeal in Form No. 36 which relates to the deletion of additions of Rs.2,46,99,200/- by the Id. first appellate authority.

4. Brief facts emerging from records are that the assessee has inherited immovable properties (*residential house*) on the death of his father in the year 1991, (*through will*). One of the properties is situated at Joshi Colony, Amritsar, which was purchased by the father of the assessee on 18.07.1962 for Rs.10,000/-. The second property is situated at Delhi which was also purchased by the father of the assessee on 16.05.1991 for Rs.9 lacs (nine lakhs) (both evidenced by registered deed of conveyance). The assessee is one of the legal heirs and is entitled to 1/3rd share, in both the above properties on demise of his father in the year 1991, as per the Indian Succession Act, 1925.

5. In the return filed by the assessee for the assessment year 2017-18 (*the year under appeal*), the assessee has disclosed the current market valuation FMV of the above two residential properties (*1/3rd share*) in his return at *Rs.2.10 cores for the Delhi property* and *45 lacs for the Amritsar property* (as per estimated value). The said properties were disclosed in the return because the normal income of the assessee for the year under appeal, *exceeded Rs.25 lacs* (twenty five lakhs) and as per

Schedule (AL in the Schedule of assets and liabilities) as per ITR, it was mandatory to disclose immovable property in the said Schedule as specified in the ITR.

6. Considering the disclosure in the return the AO presumed section 49 of the Act, 61, to be the charging section and after reducing cost of acquisition of the two properties, he has added back the amount of *Rs. 2.46 cores as income* of the assessee on account increase in the value of capital account.

7. The matter was carried in appeal before the ld. first appellate authority and the addition has been deleted by observing as follows:

“5.1 I have considered the facts of the case and material on record. All the grounds are being dealt together The issue is also being examined on merits The case of the appellant was selected for limited scrutiny under CASS on the basis of reason of large increase in capital in a year Accordingly, notice u/s 143(2) was issued to the appellant by the AO. Various notices u/s 142(1) was also issued to the appellant along with the detailed questionnaire. But no response was filed in response to the notices w/s 142(1) and therefore, the appellant was issued summons us 131 for personal appearance on 14.11.2019 along with bank account and detailed capital account explaining the increase in large share capital during the year. In response Sh. Jatinder Nagpal, Advocate filed online reply along with capital account, copy of registered deed in respect of immovable property and documentary evidence relating to purchase of immovable property

On perusal of the above documents, the AD requested the appellant to tumish the working of Rs 45.00.000/- in respect of immovable property at Amritsar and Rs 2: 10.00.000/-in respect of immovable property at Delhi adopted by him in his hand in respect of 1/3d share of said immovable property purchased by his father for consideration of Rs. 10,000/- and Rs 9,00,000/- respectively In response to the above notice issue by the AO the appellant submitted his response online dated 23/12.2019

On perusal of the submission of the appellant, the AD stated that the appellant was not correct in crediting his capital account with market value of sad properties in his hand in respect of the said properties received by him after the death of his father. It has been found that the property at Amritsar was purchased by his father on 18.07.1962 for a

consideration of Rs. 10.000/- and Rs 9.00.000/- 1/3 share of the appellant comes to Rs 3.333/- and Rs 3,00,000/- respectively By applying the price index on purchase value, indexed cost comes to Rs 8.800/- and Rs.792,000/- respectively. But the appellant credited his account with amount of Rs.2.55,00,000/- instead of Rs 8,00,800/- without paying any tax Therefore the appellant was given final opportunity to explain as to why the amount of Rs 2.45.99,200/- (Rs 2,55,00,000/- Rs.8,00,800/-) may not be added in his total Income

In response, the appellant has given online reply. The AO found the said reply not satisfactory. He also stated that the appellant has not mentioned any section under which he is entitled to take market value of the said properties in his capital account without any reason. Therefore, the AO added the amount of Rs. 246 99,200/- in the total income of the appellant.

6. *I have perused the assessment order of the AO and the explanation given by him for adding the amount of Rs 2.46,99,200/-.*

The AO has missed the point that there is no tax on inheritance in India. The appellant has inherited 1/3rd share on two properties of his deceased father and has not sold these properties during the year. There is no sale transaction and no transfer of capital asset.

Section 49 under the head capital gains is not a charging section under the IT Act and there is sale either.

In view of that, there has been an incorrect interpretation of law by the AO and the addition of Rs.2,46,99,200/- as income is not sustained and is therefore deleted.

6.1 *In view of these facts, I am of the opinion that AO was not justified in adding the amount of Rs.2,46,99,200/- to the total income of the appellant and therefore delete the same.*

7. *In the result, the appeal filed by the appellant is allowed.”*

8. Now, the revenue is in appeal before the Tribunal on the grounds contained in the memorandum of appeal.

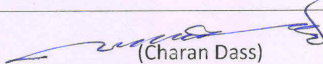
9. In course of hearing, the ld. DR has filed a written submission which is reproduced below:

**BEFORE THE HONB'LE INCOME TAX APPEALTE TRIBUNAL, AMRITSAR BENCH
AMRITSAR**

Name and address of the assessee	Vikash Mehra
Appeal no and assessment year	ITA 287/asr/2023/2017-18
Date of hearing	23-7-2025

Brief submissions

1	On Merits (on explained credits in Capital gain of Rs 2,46,99,200/-)				
	(1) Assessing officer made addition above addition on account of unexplained increase in capital on account of enhanced inadmissible value (Rs2,46,99,200) of property which is claimed to be introduced in capital account during the year)				
	Date of purchase of property (assessee having 1/3 share) of property purchased by father	Purchase as per deed	Value as per price index (1-4-2001) u/s 49(1)(iii)(b) taken by A.O	Value taken by Assessee during the year in which property is introduced in capital account	Excess amount credited to capital account (Unexplained from undisclosed sources)
	(Property 1) 18-7-62	Rs3300/- (1/3 share)	8800/-	25500000/- (credited in capital account)	24699200/-
	(Property 2) 16-5-1991	Rs 300000/- (1/3 sharae)	792000/-		
	(2) Explanation of the assessee that ,when property will be sold index cost will be applied to market value as on 1-4-2001 and no to the value brought in balance sheet by way of transfer entry which was done as per requirement of filing schedule AL of ITR form (when it is cost to be taken as per Schedule AL) was not accepted by assessing officer as enhanced value was introduced in capital <u>account having bearing and consequential effect (enhanced value and accordingly enhanced cost of acquisition as above) on future sale of property and escapement of Capital Gain</u> accordingly is added as unexplained credits in capital account.				
	(3) CIT (A) deleted the addition mere by stating that A.O has missed the point that there is no tax on inheritance in India and appellant has not sold this property and there is no transfer of capital asset' which is not the issue of addition when issue is of enhanced value taken as above in capital account specifically stated by assessing officer in his order (last ending Para)				
	(4) Further it is seen that as per Schedule AL of ITR cost of property is to be taken not market value and cost have taken as per the provisions of the act and has rightly been taken by the assessing officer and inadmissible enhanced addition in market value is unexplained credits and rightly added.				
	Accordingly Order of the CIT (A) deserves to be set aside and order of the Assessing officer be restored.				


(Charan Dass)

Addl Commissioner of Income Tax (ITAT) Amritsar

10. The ld. DR further submitted that as per *Schedule AL of ITR*, the cost of property should have been taken at cost as per provisions of the Act, and not as per market value which has been wrongly taken by the assessee and the difference in value being unexplained, has been rightly added back by the Assessing Officer, and he prayed that the assessment order may be restored.

11. Per contra, the ld. AR of the assessee submitted that both the residential properties has been purchased by his father who has unfortunately expired long back in the year 1991. He left behind three legal heirs and the assessee being one of the legal heirs has inherited 1/3rd (one third) share of the estate of his deceased father (*late Ravi Mehra*) as per will. Since, in this assessment year under appeal, the returned income of the assessee *exceeded 25 lacs (twenty five lakhs) from normal source*, he was required to file details of assets and liabilities as per Schedule in the income tax return form and in order to make a complete disclosure of all assets, he introduced these two properties in his balance sheet by capitalizing the same and reflecting the same in the assets also and necessary disclosure has also been made in the income tax return.

12. However, the disclosure has been made on the basis of the estimated market value of the assets instead of the costs. He further submitted that none of the properties has been sold or transferred and as such no profits or gains has arised from

any capital assets during the year under appeal. He further submitted that both the residential house properties are still existing as on date and are enjoyed by the family member of the assessee as residential houses.

13. As such, he submitted that in absence of any sale or transfer of any capital assets, there is no question of any capital gains and nothing is chargeable under the head capital gains. He further submitted that the Assessing Officer has made the additions on account of increase of capital account from undisclosed sources (*as per last para of the assessment order*) to which he clarified that in the instant case, the increase in capital account represented by assets has resulted from inheritance of immovable properties and it is very much from disclosed sources which is evident from the registered deed of conveyance (*original purchase deed*) existing in the name of the deceased father, which has devolved on the assessee as per provisions of Indian Succession Act, 1925.

14. As such, he prayed for upholding the order of the Id. CIT(A).

15. We have considered the rival submissions and considered the materials on record and we are of the opinion that there is no sale or transfer of any capital assets whatsoever, and as such, the provision of section 45 of the Act, does not apply in this case. The residential house property has been inherited by the assessee on the death of his father as one of the legal heirs as per the *Indian Succession Act, 1925* and the

said property has simply been revalued at market rate, which has been incorporated in his balance sheet in the liability side as his capital and in the asset side as an asset. This disclosure has been done as a compliance to his returned income for the year being more than 25 lacs (twenty five lakhs) and it was necessary on his part to disclose assets in his return of income in his *Schedule AL*.

16. As such, considering the facts of the case, we are in agreement with the view of the ld. first appellate authority and we uphold the appellate order.

17. In the result, the appeal filed by the revenue is dismissed being devoid of merits.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 07.08.2025.

Sd/-
(Manoj Kumar Aggarwal)
Accountant Member

Sd/-
(Udayan Dasgupta)
Judicial Member

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy
By Order