

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

**BEFORE SH. SUDHIR KUMAR, JUDICIAL MEMBER
AND
SH. MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.1375/DEL/2025
Assessment Year: 2014-15

Pankaj Gupta II-C/2, Ashirwad Duplex Vaishali, Ghaziabad PAN No.ADIPG729IG	Vs.	ITO Ward 2 (1)
(APPELLANT)		(RESPONDENT)

Appellant by	None
Respondent by	Sh. Om Prakash, Sr. DR

Date of hearing:	18/08/2025
Date of Pronouncement:	27/08/2025

ORDER

PER SUDHIR KUMAR, JUDICIAL MEMBER:

This appeal by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as "CIT(A)"] vide order dated 28.12.2013 pertaining to A.Y. 2014-15 arising out the assessment order dated 15.03.2022 u/s.147 r.w.s 144B of the Income-tax Act, 1961, (in short 'the Act').

2. The assessee has raised the following grounds in appeal:-

1. *That the Ld. Authorities below have erred in law as well as on facts by treating the purchases value amounting to Rs.53,50,000.00 of residential flat/ house as purchase transaction from undisclosed source.*
2. *That Ld. authorities below have further erred in law as well as on facts by not understanding the actual facts and particulars of income from house property under which deduction of interest on housing loan claimed in the ITR.*
3. *That Ld. authorities below have further erred by not providing proper and adequate visible opportunity. That assessee is neither a user friendly of computer, nor uses the computer. Mobile is used mainly for listening and calling purpose. That Ld. AO has not even try to service the impugned notices u/s 148, u/s 142(1) and u/s 147 by way of physical mode of service.*
4. *That Ld. authorities below have further erred in law as well as on fact by terming the housing loan and assessee's own contribution for the payment to selling person of housing property as transaction from undisclosed source.*
5. *That Ld. authorities below have further erred in law as well as on fact by not considering the housing loan interest amounting to Rs. 1,02,258.00 as declared in the ITR. That due to clerical mistake the address of the property was copy-pasted as Plot No. 5/51 Sect-5 FF-1 Vaishali, Ghaziabad, while the correct address is II-C/2 Ashirwad Duplex, Vaishali, Ghaziabad 201010. While the fact is that there is no housing loan upon the Plot No. 5/51 Sect-5 FF-1 Vaishali, Ghaziabad. The fact is that this housing loan interest of Rs. 1,02,258.00 is towards Housing Loan of Rs. 40,00,000.00 for the purchase of housing property situated at II-C/2 Ashirwad Duplex, Vaishali, Ghaziabad 201010 which was computed on approximate basis because actual housing loan interest figures was not available*

at the time of filing of the ITR. The actual housing loan interest is amounting to Rs. 115045.00 (14603.00 + 34683.00 + 31264.00 + 34495.00) + Housing Insurance Charges amounting to Rs. 6180.00, as charged by the bank. The above said residential house property is purchased in the joint name of Pankaj Gupta and Smt. Nandani Gupta w/o Sh. Pankaj Gupta.

6. That following documents were submitted / uploaded before Hon'ble 1st Appellate Authority:

- i. Order u/s 147 dated 15-03-2022*
- ii. Demand Notice u/s 156*
- iii. TDS 26QB*
- iv. PNB Housing Loan Statement*
 - v. PNB Housing Loan Sanction Letter*
 - vi. ITR-V dated 21-03-2015*
 - vii. ITR Computation*
 - viii. Affidavit dated 07-09-2022*

That 1st Appellate Authority neither considered the above said liable upon the Appeal Portal nor commented about above documents available upon the Appeal Portal.

7. That Ld. authorities below have further erred in law as well as on fact by not understanding this fact that assessee own-self deducted and deposited the TDS @ 1% amounting to Rs. 53850.00 towards "TDS on Sale of Property 800" vide TC No. 01197 dated 26-12-2013, but on account of technical glitch / clerical / computation mistake same not taken in the ITR.

8. That Ld. authorities below have further erred in law as well as on fact by not understanding this fact that when assessee own-self deducting and depositing the TDS on Sale of Property and declaring the housing loan interest in the ITR then how it can be treated as 'escaped assessment'.

9. That impugned notices and ex-parte assessment was done during Covid-19 period from 15-03-2020 to 29-05-2022 (28-02-2022 + 90

days) as per Hon'ble Supreme Court of India in Miscellaneous Application No. 21 of 2022 dated January 10, 2022 held as under in view of rising COVID cases:

Restored its order dated March 8, 2021, April 27, 2021 and September 23, 2021. Further directed that the period from March 15, 2020 till February 28., 2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

Consequently, the balance period of limitation remaining as on October 03,2021 if any shall become available with effect from March 01, 2022.

Held that, in cases where the limitation expiring during the period between March 15, 2020 till February 28, 2022, the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from March 01, 2022. Further, where the actual balance period of limitation remaining, with effect from March 01, 2022 is greater than 90 days, that longer period shall apply.

Clarified that, the period from March 15, 2020 till February 28, 2022, shall also stand excluded in computing the periods prescribed under Section 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which f limitation for instituting Act.1961 prescribe period(s) proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

10. That during the Covid-19 period assessee was not aware about all these impugned notices / ex-parte assessment. Assessee came to know about impugned notices and ex-parte assessment through 'CA'

when he approached to his 'CA' for filing the ITR of FY21-22 (AY22-23) in the month of September 2022.

11. That on account of non-user friendly with Income Tax Portal and Computer appeal filed could not be attended on account of lack of knowledge and unawareness.

12. That Ld. Authorities below have erred in law as well on fact by not considering the affidavit submitted upon the portal.

13. That in the present case principal of "Doctrine of Equity & Justice" has not been followed. That in the present case assessee has been dragged in to an unwanted litigation without providing proper and adequate opportunity. That the main object and principal of the taxation is that "the king should collect his taxes without hurting his subject even as been collect honey without harming the flower (extract from Vidur Niti)"

14. That the authorities below has grossly erred in law as well as on facts.

15. That the assessment order as well as 1st appeal order is illegal on facts as well as in law.

16. That the appellant reserves the right to add, delete or amend any ground of appeal in the course of hearing.

17. That the delay, what so ever, is raised be stayed in the interest of justice.

18. That the demand, what so ever, is raised be stayed in the interest of justice.

19. That if there is any quarry/ explanation required kindly offer the opportunity so that same be furnished.

It is prayed therefore that the additional income as assessed by Ld. AO, amounting to Rs.5778000.00 (Rs.6284710.00-506710.00) and tax and penalty there upon be deleted.

3. The assessee is an individual. The assessee has earned income during the AY 2014-15 from House Property, Business or Profession and Other Sources. That the nature of business is Trading Others -204 (Estate Renting & Trading). The assessee filed the return of income for A.Y. 2014-15 declaring total income of Rs. 5,06,710/-. The assessee has purchased a residential flat amounting to Rs.53,50,000/-which was not disclose in the ITR. The Assessing Officer completed the assessment after making the addition of Rs. 57,78,000/- u/s 147 r.w.s. 144 r.w.s. 144B of the Act.

4. Aggrieved by the order of the AO, the assessee filed the appeal before the Ld. CIT(A), the Ld. CIT(A) has dismissed the appeal of the assessee by observing as under :

“In view of the appellant’s total non-compliance during appeal proceedings, I find it extremely difficult to adjudicate on the appeal for want of adequate submission and clarification, counter-clarification.”

5. None is present for assessee. Learned authorized representative for Department of Revenue submitted that departmental authorities have passed reasoned orders. He also submitted that the assessee has taken part in the proceedings but not submitted his submission before the Ld. NFAC.

6. We have heard the Ld. DR and perused the material available on record. It is an admitted fact that despite opportunities granted by Ld. NFAC and the AO the assessee did not file his submissions before the authorities, for which the AO completed the assessment *exparte* and the appeal was also dismissed in non-compliance by the Ld. NFAC.

7. Since in the instant case both the lower authorities passed the *exparte* order. The Ld. NFAC has dismissed the appeal in non-compliance while the appeal should be decided on merit as per law. Therefore, considering the totality of the facts and circumstances of the case and in the interest of justice, we deem it proper to restore the issue

to the file of the Assessing officer with a direction to grant one final opportunity to the assessee to substantiate its claim and decide the issue as per fact and law. The assessee is also directed to appear before the Ld. Assessing Officer and co-operate in the proceedings. The grounds raised by the assessee are accordingly allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 27.08.2025.

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

Neha, Sr. PS

Date: .08.2025

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(SUDHIR KUMAR)
(JUDICIAL MEMBER)

ASSISTANT REGISTRAR
ITAT DELHI