

**IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**I.T.A. No. 5054/Mum/2025
A.Y: 2018-19**

Ms. Usha Kamlesh shah H6, Everest Bldg, 156, Tardeo Road, tardeo Circle, Mumbai – 400 034 PAN – AMEPS1134P	Vs	ITO, Ward 13(3)(1) 124, Piramal Chambers, Parel, Mumbai.
(Appellant)		(Respondent)

Assessee by	Shri Sanjay Parikha
Revenue by	Ms. Kavitha kaushik, Sr. DR

Date of Hearing	20.11.2025
Date of Pronouncement	28.11.2025

ORDER

Per: SHRI. SANDEEP GOSAIN, J.M.:

The present appeal has been filed by the assessee challenging the impugned order dt. 26.06.2025 passed under section 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment year 2018-19. The assessee has raised the following grounds of appeal:

A. Re-opening of assessment

1) The learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] erred on facts and in law in not adjudicating the ground raised by the appellant challenging the reopening of assessment.

2) *The learned CIT(A) having noted that the Agreement was entered into on the 11th May, 2018 erred on facts and in law in not holding that the reopening of assessment on the basis of the said Agreement was bad in law.*

3) *Appellant prays that your honour hold that the reopening of assessment is bad in law and the consequential order u/s. 147 r.w.s. 144B assessing the appellant's income at Rs. 3,58,31,691/- may be annulled.*

B) Confirming addition u/s. 69 – Rs. 2,40,76,991/-

4) *The learned CIT(A) having noted that the payment of substantial amounts were made in earlier years erred on facts and in law in confirming the addition made by the AO u/s. 69 of Rs. 2,40,76,991/- by holding that the appellant's actual investment and economic ownership materialized much before the execution of the formal agreement in May 2018 and further erred in holding that AO had rightly taken a substantive view of the transaction by attributing it to the correct assessment year based on actual financial activity.*

The learned CIT(A) erred in confirming the addition u/s. 69 under the doctrine of real income.

The learned CIT(A) further erred in confirming the addition u/s. 69 of Rs. 2,40,76,991/- by holding that the sale deed submitted does not disclose the shareholding ratio between the co-purchasers and no other legally valid document has been submitted to support the claim of 2.70% ownership.

7) *The learned CIT(A) failed to appreciate that as per Transfer Property Act, if the share of each buyer to the Agreement is not specified in the Agreement, they would hold the property in the ratio in which they have contributed to the property. Hence, without prejudice, the entire sum of Rs. 2,40,76,991/- could not be taxed in the hands of the appellant u/s. 69.*

8) *Appellant prays that the addition made by the AO u/s. 69 of Rs. 2,40,76,991/- and confirmed by the CIT(A) may be deleted.*

Not deciding the ground relating to addition u/s. 56(2)(x) - Rs. 32,08,253/-

9) *The learned CIT(A) erred on facts and in law in not deciding the ground relating to addition u/s. 56(2)(x) of Rs. 32,08,253/-.*

10) *The learned AO and CIT(A) failed to appreciate that the appellant had made substantial payments for acquisition of property in earlier years and accordingly no addition u/s. 56(2)(x) could be made during the current year.*

11) *Without prejudice to the above, the learned AO and CIT(A) failed to appreciate that if at all any addition u/s. 56(2)(x) had to be made, the same could only be on account of the difference in Stamp Duty Value as on date of first payment and the Agreement Value.*

12) *Appellant prays that the addition u/s. 56(2)(x) made by the AO of Rs. 32,08,253/- may be deleted.*

D) General

13) *The above grounds of appeal are without prejudice to one another and the appellant craves leave to add, alter, amend, delete or modify any of the above grounds of appeal.*

2. At the very outset, it has been pointed out by Ld. AR that although the assessee had raised ground No. A (1 to 3) and ground No. C (9 to 12) before Ld. CIT(A) but those have not at all been considered or decided by Ld. CIT(A).

3. After hearing the counsels for both the parties on this aspect of the arguments and after going through the records and the orders passed by Ld. CIT(A), we found that in fact assessee had specifically raised these grounds before Ld. CIT(A) but the same have not been considered and adjudicated at all. In our view, it is the statutory

duty of Ld. CIT(A) to adjudicate and decide all the grounds raised by the assessee which he failed to do so.

4. Since assessment record is required for factual verification and for deciding these legal issues therefore bench is of the view that the ends of justice would met in case the matter is restore back to the file of Ld. CIT(A) to decide all the grounds raised before him on merits and also keeping in view that these grounds raised by the assessee goes to the roots of the case, therefore the same requires proper adjudication, after providing adequate opportunity of hearing to the assessee since the outcome of the above grounds would have direct bearing upon the other grounds therefore these grounds are also send back to the file of Ld. CIT(A) for afresh decision. The assessee is also liberty to raise any other ground before Ld. CIT(A) if so advised. the other grounds raised by the assessee are kept open and not adjudicated at this stage.

5. Before parting, we make it clear that my decision to restore the matter back to the file of the CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the CIT(A) independently in accordance with law.

6. In the result the appeal filed by the assessee partly allowed for statistical purposes.

Order pronounced in the open court on 28/11/2025

Sd/-
(OM PRAKASH KANT)
(ACCOUNTANT MEMBER)

Sd/-
(SANDEEP GOSAIN)
(JUDICIAL MEMBER)

Mumbai:
Dated: 28/11/2025

KRK, Sr. PS.

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)
ITAT, Mumbai