

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "D": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No. 2759/Del/2025
(Assessment Year: 2016-17)

Manoj Kumar Gupta, B-20-2, Plot No. 52, Sukshsagar Apartment, Patparganj, Delhi	Vs.	ACIT, Circle-International Taxation-1(3)(1), Delhi
(Appellant)		(Respondent)
PAN: AAVPG9828K		

Assessee by :	Shri Pranshu Goel, CA Shri Aditya Gupta, Adv
Revenue by:	Shri Suresh Lakhawat, Sr. DR
Date of Hearing	13/11/2025
Date of pronouncement	24/12/2025

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No. 2759/Del/2025 for AY 2016-17, arise out of the order of the Commissioner of Income Tax (Appeals)-42, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. ITBA/APL/S/250/2025-26/1075428582(1) dated 02.04.2025 against the order of assessment passed u/s 147 r.w.s. 144B of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 29.04.2024 by the Assessing Officer, ACIT, Circle-1(3)(1), International Taxation, New Delhi (hereinafter referred to as 'Id. AO').
2. The assessee has challenged the validity of assumption of jurisdiction u/s 147 of the Act to be invalid vide Ground Nos. 1 to 4. Ground No. 5 raised by the assessee is challenging the addition made in the sum of Rs. 11,18,596/- on account of investment u/s 69 of the Act on merits.

3. We have heard the rival submissions and perused the material available on record. During the year under consideration, the assessee applied for purchase of residential flat in the project named "The Lake of Omaxe Chandigarh Extension Developers Pvt. Ltd.". The Residential Flat No. TLS/Mystic-C/TENTH/1004 was allotted to the assessee on 08.04.2015 for the cost of Rs. 61,06,100/- and payment for the same being made in installments as and when demanded by the developer company. The assessee is a non resident Indian and resident of USA since 2003. The said property is purchased out of own savings with SBI NRE Account and Housing loan from PNB Housing Finance Ltd. The copy of bank statement of SBI NRE and PNB Housing Loan account along with loan sanction letter are placed on record. The assessee deducted tax at source @1% on the entire value of Rs. 60,46,100/- and remitted the TDS to the Central Govt and filed requisite TDS statement thereon. Based on this TDS statement, information got triggered to the Id AO that there was a purchase of property more than Rs. 50 lakhs by the assessee and accordingly the case of the assessee was sought to be reopened by the Id AO after the expiry of 3 years from the end of the relevant assessment year on the ground that escaped income is exceeding Rs. 50 lakhs and is represented in the form of an asset. It is pertinent to note that the assessee had purchased this property along with Ms. Rachna Gupta. This fact is clearly evident from the allotment letter given by the developer which is enclosed at pages 41 to 64 of the Paper Book and also from the loan sanction letter of PNB Housing which is enclosed at pages 39 to 40 of the Paper Book. Hence, it is crystal clear that the property is a co-ownership property and in the absence of definite apportionment ratio it had to be construed as equal ownership. Once it is held to be equal ownership, the value of the property in the hands of the assessee i.e. Manoj Kumar Gupta would be less than Rs. 50 lakhs and hence, no reopening of assessment could be made beyond 3 years in terms of Section 149(1)(b) of the Act. Hence, the reassessment deserves to be quashed on this count itself for invalid assumption of jurisdiction.

4. Even on merits, we find that the assessee had made payment through regular banking channels and had availed housing loan of Rs. 44,43,000/- from PNB Housing Finance Ltd and all the payments made to the developers are duly

reflected in the bank statement of the assessee and his father Mr. Tej Singh Gupta. The bank statements are enclosed from pages 26 to 38 of the Paper Book. Hence, even on merits, there is absolutely no case for treating any part of the payment made for purchase of property as unexplained warranting any addition u/s 69 of the Act as source for the payment have been duly reflected in the bank statement itself out of available bank balance. Considering the status of the assessee to be a non resident since 2003 and considering the facts available on record which are duly supported by documentary evidences, we hold that the assessee had duly explained the entire payments made for purchase of property during the year. Hence, there cannot be any addition u/s 69 of the Act in this regard. So, even on merits, the addition made deserves to be deleted.

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

Order pronounced in the open court on 24/12/2025.

-Sd/-
(VIMAL KUMAR)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 24/12/2025
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi