



आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "SMC" :: PUNE

BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2858/PUN/2025

निर्धारण वर्ष / Assessment Year: 2010-11

Afsha Shamim Ahmed Khan, 11, Paradise Plaza, Opposite Alone Point, Hotel Shingada Talao, Nashik – 422001.	V s	The Income Tax Officer, Ward-1(3), Nashik.
PAN: AZMPK3812B		
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Pramod Shingte
Revenue by	Shri Madhukar Anand – JCIT(through virtual)
Date of hearing	07/01/2026
Date of pronouncement	08/01/2026

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This is an appeal filed by the Assessee against the order of  
ld.Commissioner of Income Tax(Appeal)[NFAC] passed under  
section 250 of the Income Tax Act, 1961 for the A.Y.2010-11 dated  
20.03.2025 emanating from the Assessment Order passed under  
section 144 of the Act, dated 11.12.2017. The Assessee has raised  
the following grounds of appeal :



*“1 On the facts and the circumstances of the case and in law, lower authorities erred in passing ex-parte order and erred in deciding the issue only on the basis of material available with them, this action is being violative of principal of natural justice. Your appellant prays for granting opportunity of hearing before lower authorities*

*Without prejudice to the above grounds of appeal, following grounds are also taken on merit,*

*2. On the facts and the circumstances of the case and in law, Ld. AO erred in making an addition of Rs. 40,00,000/- as LTCG being entire sale consideration received for sale of immovable property, without considering the cost of acquisition and further erred in not giving benefit of exemption u/s 54, the action of Ld. AO is not in accordance with law, appellant prays for deletion of entire addition and requests for correct of computation as per provisions of law.*

*3. On the facts and the circumstances of the case and in law, Ld. AO erred in making an addition of Rs. 40,00,000/- as LTCG being entire sale consideration received for sale of immovable property, without appreciating the fact that appellant is only 50% owner of such property and after considering the acquisition costs and exemptions, no capital gain tax is payable and therefore appellant prays for deletion of entire addition.*

*Your appellant prays for deletion of entire addition. Your appellant craves for to add, alter amend, modify, delete any or all grounds of appeal before or during the course of hearing in the interest of principle of natural justice.”*

**Delay :**

1.1 There was a delay of 184 days in filing appeal before this Tribunal. Assessee filed an Affidavit for condonation of delay. We have perused the Affidavit and are convinced that there is reasonable and sufficient cause for delay. Hence, delay is condoned.

**Findings & Analysis :**

2. We have heard both the parties and perused the records. In this case, Assessee had not filed Return of Income for A.Y.200-11. Assessing Officer(AO) passed an order u/s.144 r.w.s 147 of the Act for A.Y.2010-11 on 11.12.2017. The relevant paragraph 6 of the Assessment Order is reproduced here as under :

*“6. During the financial year 2009-10 relevant to the assessment year 2010-11, assessee has sold her immovable property for Rs. 40,00,000/-, on which assessee has not filed her return of income as against notice u/s 148 of the Income Tax Act dated 27/03/2017. Therefore, in absence of any submission of the assessee, the property sold is held as a capital asset within the meaning of section 2(14) of the Income Tax Act, the benefit of indexation cost for acquisition of the property is denied in absence of supporting documentary evidences. Therefore, the total consideration received of Rs.40,00,000/- is treated as Long Term Capital Gain. Since the assessee has concealed the particulars of income, therefore, penal proceeding under section 271(1)(c) of the Income-tax Act, 1961 are separately initiated on this amount.”*



3. Aggrieved by the Assessment Order, Assessee filed appeal before the Id.CIT(A), wherein Assessee has raised legal grounds. Assessee also filed a statement of fact. The Statement of facts filed by Assessee before the Id.CIT(A) is reproduced here as under :

*“The appellant alongwith other two persons sold residential property on 25th January 2010 for Rs. 40,00,000 from this consideration my share was 50 percent that is Rs.20,00,000 and Rs. 20,00,000 by other two joint owner of the property (i.e 25 percent each amounting Rs. 10,00,000 each) and the said consideration Rs. 40,00,000 was reinvested by we three alongwith Rs.500000 added there in that is new asset purchased that is residential house for Rs. 45,00,000 in the month of February 2010. Notice u/s 142(1) and u/s 148 not properly served to the appellant on his residential address as well assessment order for A.y 2010/11 therefore appellant aggrieved and preferred the appeal against the said Ex-party order passed u/s 144 of income tax Act, 1961.”*

3.1 However, Id.CIT(A) has dismissed the appeal of the Assessee without discussing the merits of the case on account of non-compliance to the notices issued. Aggrieved by the order of the Id.CIT(A), Assessee has filed appeal before this Tribunal.

4. Ld.Authorised Representative(Id.AR) for the Assessee filed a paper book containing sale deed dated 27.01.2010, purchase deed dated 02.02.2010 and capital gain computation. Ld.AR submitted that Assessing Officer was already having copy of sale deed and



hence he was aware that there are three names mentioned in the sale deed. Ld.AR further submitted that without considering these documents, Assessing Officer and Id.CIT(A) has passed the orders. Ld.AR filed a petition for admission of additional evidence.

5. In this case, it is a fact that Assessee before Id.CIT(A) had submitted that impugned property belongs to three persons, hence entire amount cannot be added into Assessee's total income. However, Id.CIT(A) has not considered the submission made by the Assessee. It is also noted that Assessing Officer has issued notice u/s.148 based on the information regarding sale of immovable property. It means, Assessing Officer was aware regarding three owners of the impugned property. However, Assessing Officer has added the entire amount. Assessing Officer has not even considered the cost of acquisition. In these facts and circumstances of the case, we set-aside the order of the Assessing Officer to Assessing Officer for denovo adjudication. Assessing Officer shall provide opportunity to the Assessee. Assessee shall file necessary documents before the Assessing Officer.

6. The Hon'ble Bombay High Court in the case of **Sahebrao Deshmukh Co-op. Bank Ltd.v.Assistant Commissioner of**



**Income-tax[2023] 149 taxmann.com 248 (Bombay)**Writ Petition No.3259 of 2022February 10,2023 has directed Assessing Officer to provide copy of reasons recorded along with copy of approval by the competent authority and copy of information based on which notice u/s.148 issued. Therefore, respectfully following Hon'ble High Court(supra), we direct Assessing Officer to provide the details to the assessee.

6.1 Accordingly, Grounds of appeal raised by the Assessee are allowed for statistical purpose.

7. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 08 January, 2026.

Sd/-

**VINAY BHAMORE**  
**JUDICIAL MEMBER**

Sd/-

**Dr.DIPAK P. RIPOTE**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 08 Jan, 2026/ SGR

**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "एस एम सी" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.



6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

/ / TRUE COPY / /

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.