

IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE BENCH, INDORE  
(Conducted Through Hybrid Mode)

**Before: Shri Siddhartha Nautiyal, Judicial Member  
And Shri B.M. Biyani, Accountant Member**

**ITA No. 394/IND/2025  
Assessment Year: 2009-10**

Oneel Verma C/o. Rajendra P. Shah & Co. 6, Archit Enclave Kotwal Park, Near Swimming Pool, Trimbak Road, Nasik, Maharashtra-422002  <b>PAN No: ABTPV9828M</b> (Appellant)	Vs	Income Tax Officer, Ward-5(1), Bhopal  (Respondent)
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**Appellant by : Shri Devendra Jain, Adv.**  
**Respondent by : Shri Ashish Porwal, Sr. D.R.**

Date of hearing : 18-12-2025  
Date of pronouncement : 21-01-2026

**आदेश/ORDER**

**PER : SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER:-**

The present appeal has been filed by the Assessee against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (in short "NFAC") Delhi vide order dated 29-11-2024 passed for A.Y. 2009-10.

## 2. The assessee has raised the following grounds of appeal:

*1. In the facts and circumstances of the case and in law, the Learned National Faceless Appeal Centre (NFAC) CIT(A) has erred in upholding the action of Ld. Assessing Officer in initiating reassessment proceedings by issuing of notice under section 148 and passing the Assessment Order under section 144 without any valid jurisdiction.*

*2. In the facts and circumstances of the case and in law, the Learned National Faceless Appeal Centre (NFAC) CIT(A) has erred in upholding the action of Ld. Assessing Officer in completing assessment without serving mandatory notice under section 148.*

*3. In the facts and circumstances of the case and in law, the Learned National Faceless Appeal Centre (NFAC) CIT(A) has erred in upholding the action of Ld. Assessing Officer of not issuing notice u/s 143(2) of the Act which is the mandatory requirement.*

*2. In the facts and circumstances of the case and in law, the Learned National Faceless Appeal Centre (NFAC) CIT(A) has erred in upholding the Assessment Proceedings initiated without a valid sanction and in violation of the directions laid down by the Hon'ble Bombay High court in the case of Tata Capital Financial Services Limited vs. ACIT [WP No. 546/2022: order dated 15.02.2022.*

*4. In the facts and circumstances of the case and in law, the Learned National Faceless Appeal Centre (NFAC), CIT (A), Mumbai has erred in assessing capital gain at Rs. 32,67,500/- without giving deduction for the indexed cost of acquisition amounting to Rs. 22,80,700/- for F.Y 2008-09.*

## **The Application for condonation of delay of 65 days in filing of the present appeal.:**

3. The assessee has filed an application seeking condonation of delay of 65 days in filing the present appeal. We have carefully considered the contents of the application as well as the affidavit filed in support thereof. From the explanation furnished, it is evident that the impugned order passed under section 250 of the Income-tax Act, 1961 ("the Act") was uploaded on the e-filing portal and no physical copy was served upon the assessee. It is further submitted that during the relevant period the assessee had undergone a change in professional engagements, had taken up new responsibilities requiring extensive travel, and was also in the process of setting up a new business venture. The assessee came to know about the appellate order only while accessing the income-tax portal at a later stage and thereafter took

immediate steps to file the present appeal. We find that the delay has occurred due to reasonable and bona fide causes and there is no material to suggest that the delay was deliberate or intentional. In view of the settled principle that procedural delays should not defeat substantial justice, we condone the delay of 65 days in filing the appeal and admit the appeal for adjudication in the interest of justice.

**On Merits:**

4. The brief facts of the case are that the assessee is an individual, regularly assessed to tax at Nashik, and had filed his return of income for Assessment Year 2009–10. The assessment was completed by the Assessing Officer at Bhopal under section 144 read with section 147 of the Income-tax Act (“the Act”) vide order dated 21.12.2016. The reassessment proceedings were initiated on the basis of AIR information indicating that the assessee had sold an immovable property situated at Bhopal during the relevant previous year. According to the Assessing Officer, the assessee had not filed a return of income and had not complied with the notices issued under section 148 and section 142(1). Since the notices were returned unserved and no compliance was made, the Assessing Officer proceeded to complete the assessment ex parte under section 144. The Assessing Officer treated the stamp duty value of the property amounting to ₹32,67,500/- as unexplained income / long-term capital gain in the hands of the assessee, without allowing any deduction towards indexed cost of acquisition.

5. Aggrieved by the assessment order, the assessee preferred an appeal before the Commissioner of Income-tax (Appeals). Before the CIT(Appeals), the assessee contended that he was regularly assessed to tax at Nashik, that he had in fact filed his return of income for the relevant assessment year, and that the notices issued under section 148 and subsequent notices were never served upon him. It was also contended that the Assessing Officer at Bhopal had no jurisdiction to issue notice under section 148 and to complete the assessment, since the jurisdiction over the assessee vested with the Assessing Officer at Nashik. On merits, it was submitted that the property was sold under distressed circumstances, that the actual sale consideration was much lower than the stamp duty value, and that the Assessing Officer erred in adopting the stamp duty value without allowing indexed cost of acquisition.

6. The CIT(Appeals), however, did not adjudicate the issue of jurisdiction as a preliminary issue. The appellate authority proceeded on the footing that the assessment was completed ex parte due to non-compliance and held that the matter required extensive verification of facts. Relying upon the amended provisions of section 251(1)(a) and section 153(3) of the Act, the CIT(Appeals) set aside the assessment order and restored the matter to the file of the Assessing Officer for fresh adjudication, granting liberty to the assessee to place necessary evidences. The appeal was thus partly allowed for statistical purposes.

7. Aggrieved by the order of the CIT(Appeals), the assessee is in appeal before us.

8. Before us, at the outset, the learned counsel for the assessee raised a preliminary objection that the Assessing Officer who passed the reassessment order under section 147 did not have jurisdiction over the assessee. It was submitted that the assessee is a resident of Nashik and was regularly assessed there, and therefore the Assessing Officer stationed at Bhopal lacked jurisdiction to issue notice under section 148 and to complete the assessment. During the course of arguments, however, the learned counsel fairly acknowledged that the assessee had sold an immovable property situated at Bhopal during the relevant year.

9. We have carefully considered the rival submissions and the material available on record. We find that the issue of jurisdiction of the Assessing Officer goes to the very root of the matter and is required to be decided as a threshold issue before entering into the merits of the additions made in the assessment. From the record, it is evident that this jurisdictional issue was specifically raised by the assessee before the CIT(Appeals), but the same has not been adjudicated in clear terms. Instead, the matter was set aside to the Assessing Officer without first determining whether the reassessment proceedings themselves were validly initiated by an officer having jurisdiction over the assessee.

10. In our considered view, the correct course would be to restore the matter to the file of the Commissioner of Income-tax (Appeals) with a direction to first adjudicate upon the issue of jurisdiction of the Assessing Officer to issue notice under section 148 and to pass the assessment order under

section 147. The CIT(Appeals) shall grant due opportunity of hearing to the assessee to place all relevant facts and legal submissions on the issue of jurisdiction. After examining the totality of facts and the applicable legal position, the CIT(Appeals) shall pass a speaking order on the jurisdictional issue.

11. In view of the above directions, the matter is restored to the file of the Commissioner of Income-tax (Appeals) for de novo consideration.

12. In the result, the appeal filed by the assessee is allowed for statistical purposes.

**Order pronounced as per Rule 34 of I.T.A.T. Rules 1963 on 21 -01-2026**

**Sd/-**  
**(B.M. BIYANI)**  
**ACCOUNTANT MEMBER**  
**Indore: Dated 21/01/2026**

**Sd/-**  
**(SIDDHARTHA NAUTIYAL)**  
**JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. **Concerned CIT**
4. **CIT (A)**
5. **DR, ITAT, Ahmedabad**
6. **Guard file.**

By order

**Assistant Registrar**  
**Income Tax Appellate Tribunal,**  
**Indore Bench, Indore**