

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 494/SRT/2025
(Assessment Year: 2010-11)

Yusufbhai Gafurbhai Shaikh, 7/439, Kumbhar Street, Galemandi, Surat-395003 [PAN : ASNPS 6552 Q]	Vs.	Income Tax Officer, Ward-3(2)(6), Surat
(Appellant)	..	(Respondent)
Appellant represented by :	Shri Yogesh B. Shah, AR	
Respondent represented by:	Shri Ashish Kumar, Sr DR	
Date of Hearing	19.01.2026	
Date of Pronouncement	22.01.2026	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

This appeal has been filed by the assessee against the order dated 24.03.2025 passed by the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ('Ld. CIT (A)' in short), under Section 250 of the Income-tax Act, 1961 ('the Act' in short) for Assessment Year 2010-11.

2. The assessee has raised following grounds of appeal:

"1. The learned CIT (Appeal) NFAC Delhi, has erred in confirming the re-opening of the case of appellant under explanation 2 (a) of section 147 of the Act, Such re-opening is authorized where no return of income has been furnished by the assessee, where the appellant has duly submitted his return income on 30/8/2013 vide ASK 101300813051938 in of response to notice dtd. 29/7/2013 bearing No.NMS/ASNPS6552Q/236136.

On the facts and in the circumstances of the case, the re-opening notice U/s.148 deserves to be quashed.

(2) The learned CIT (Appeal) has erred in confirming the re-opening the case of appellant even though the appellant duly furnished reply to the notice U/s.133 (6) dtd. 2/2/2017 where in all the details of LTCG were furnished by the appellant.

On the facts and in the circumstances of the case and in law, notice U/s.148 deserves to be quashed as per law.

(3) The learned A.O. has erred in charging interest U/s.234-A, 234-B, 234-C of the Act. On the facts and in the circumstances of the case the same should not be charged."

3. The brief facts relevant for adjudication of the issue are that the assessment was reopened on the basis of information received by the Assessing Officer that the assessee was a 1/6th co-owner of immovable property which was sold for a total consideration of Rs.2,45,68,140/-. Prior to issuance of notice u/s 148 of the Act, the Assessing Officer conducted enquiries and issued notice under section 133(6) of the Act. In response thereto, the assessee submitted that he was owner of 1/6th share in the said property and had already offered the corresponding capital gains to tax and paid due taxes thereon. The assessee also furnished complete details along with documentary evidences in support of computation and payment of taxes. Despite the above submissions and evidences placed on record, the Assessing Officer proceeded to issue notice under section 148 of the Act and completed the reassessment. The reopening was upheld by the Ld. CIT(A).

4. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before the Tribunal.

5. We have heard the rival submissions and perused the material available on record. From the facts on record, it is undisputed that the assessee was only a

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1/6th co-owner of the property. The assessee had already disclosed the transaction, computed Long-Term Capital Gain relatable to his share and paid due taxes. All relevant details and evidences were furnished before issuance of notice u/s 148, including in response to notice under section 133(6) of the Act. Explanation 2(a) to section 147 deems income to have escaped assessment where no return of income has been furnished, whereas in the present case, the assessee had duly furnished return of income in response to notice u/s 148 and had already discharged his tax liability on the impugned transaction. It is a settled principle of law that reassessment proceedings cannot be initiated merely on suspicion or for verification, particularly when the assessee has already disclosed all primary facts and paid due taxes. Once the Assessing Officer is in possession of complete facts prior to issuance of notice u/s 148, reopening of assessment lacks jurisdiction. In the present case, since no income chargeable to tax had escaped assessment, and the assessee had fully and truly disclosed all material facts, the basic jurisdictional requirement u/s 147 of the Act fails. Therefore, we hold that the reopening of assessment is bad in law and liable to be quashed.

6. In view of the above discussion, we set aside the order of the Ld. CIT(A) and quash the reassessment proceedings initiated u/s 147 of the Act.

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

This order is pronounced in the open Court on 22.01.2026

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Surat; Dated 22/01/2026
btk

Sd/-

(DR. B.R.R. KUMAR)
VICE-PRESIDENT

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण ,/DR,ITAT, Surat,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण
ITAT, Surat