

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "I" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI SANDEEP SINGH KARHAIL (JUDICIAL MEMBER)**

**ITA No. 344/MUM/2025
Assessment Year: 2018-19**

Manisha Devnani,
74, Sindhi Society Chembur,
Mumbai-400071.
PAN NO. BDJPD 1576 P
Appellant

INT Tax Ward 2(1)(1),
Kautilya Bhavan, BKC,
Mumbai-400051.
Vs.
Respondent

Assessee by : Mr. Varis Isani (Virtually appeared)
Revenue by : Mr. Krishna Kumar, Sr. DR

Date of Hearing : 19/01/2026
Date of pronouncement : 23/01/2026

ORDER

PER OM PRAKASH KANT, AM

This appeal has been preferred by the assessee against the assessment order dated 18.04.2024 passed by the learned Income-tax Officer (International Taxation), Ward 1(1), Mumbai, under section 147 read with section 144C(3) of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), for the assessment year 2018-19, raising following grounds:



1. The Ld. Income Tax Officer, Ward 2(1)(1) Mumbai- (for short Assessing Authority) has erred in law in passing the assessment order u/s. 147 r.w.s 144C(3) of the Income Tax Act for A.Y. 2018-19 on 18/04/2024 wherein total income is assessed to Rs. 33,03,570/-. The assessment order passed by the Assessing Authority deserves to be quashed and set aside.

3. The Lrd. Assessing Officer has made addition u/s. 69 for unexplained investment of Rs. 10,66,000/- during the year under consideration in the assessment order and charged tax at special rate u/s. 115BBE of the Income Tax Act.

4. The Lrd. Assessing Officer has made addition of Rs. 22,37,572/- the differential amount between the purchase price and stamp duty value of the purchase property without verifying documents and details and erroneously and without application of independent mind.

5. The Lrd. Assessing Officer has erred in law in applying the provision of section 56(2)(x) for differential value between the purchase price and stamp duty value of Rs. 22,37,572/-. In fact the entire transaction and is not executed by payment by the appellant.. Therefore, applying provision of section 56(2)(x) & 115BBE is highly unjustifiable and unlawful.

6. The Lrd. Assessing officer has erred in law in applying the provision of 69 for unexplained investment. The A.O. not verified all payment to the seller and also not verified the actual source of the investment and added Rs. 10,66,000/- treated as a unexplained investment is highly unjustifiable and unlawful.

7. The Lrd. Assessing Officer has erred in law in charging interest u/s. 234A-B-C-D of the Income Tax Act on the consequential demand raised in the assessment order.

8. The Lrd. Assessing Officer has erred in law in initiating penalty proceedings u/s. 270A of the Income Tax Act.

9. The Lrd. Assessing Officer has grievously erred in law in applying the provision of section 115BBE of the Income Tax Act which was not in force. In absence of express enactment or necessary intendment, the provisions of a statute which affect a right in existence at the time of the passing of that enactment are not to be applied retrospectively.



10. The appellant craves leave to add, alter or amend any of the grounds of appeal either before or at the time of hearing of the appeal.

Prayer:

It is therefore prayed that,

1. The order passed by the appellate authority dismissing the appeal of the appellant on the ground of non-compliance may please be quashed and set aside and appeal may be heard on merits based on documents and evidences.

2. The assessment order passed u/s. 147 r.w.s. 144C(3) of the Income Tax Act deserves to be quashed and set aside.

3. Addition of Rs. 10,66,000/- made u/s. 69 applying the provision may kindly be deleted.

4. Addition of Rs. 22,37,572/- made u/s. 56(2)(x) applying the provision may kindly be deleted.

5. A special rate of taxation u/s. 115BBE applied for addition made in the assessment order may kindly be deleted as the same is against the provision of the Act.

6. The assessment order may kindly be considered as passed with gross violation of principle of natural justice.

7. Consequential interest charged u/s. 234 may kindly be reduced / deleted.

8. Initiation of penalty proceedings may kindly be directed to be dropped.

9. Stay against recovery of demand may please be granted.

10. Delay caused in filing the appeal may please be condoned.

11. Any other relief which may deemed fit and proper may please be given.

2. At the outset, it is noticed that the Registry has pointed out certain defects in the appeal memo, inter alia, that the appeal is time-barred by 201 days, that copies of the draft assessment order



and directions of the Dispute Resolution Panel (DRP) have not been filed, and that objections before the DRP under section 144C(2) were not placed on record. It is noted that the assessee has rectified the defect relating to payment of appeal fee. However, in respect of the defect concerning non-filing of DRP directions, the assessee submitted that no objections were filed before the DRP and that submissions were made only before the Assessing Officer.

2.1 In this regard, the Assessing Officer has categorically recorded in the assessment order that the assessee, being an eligible assessee under section 144C(15)(b) of the Act, was served with a draft assessment order dated 11.03.2024 in accordance with section 144C(1) of the Act. The assessee was required, within 30 days, either to accept the proposed variations or to file objections before the DRP with a copy to the Assessing Officer, as mandated under section 144C(2) of the Act. It is an admitted position that the assessee did not file any objections before the DRP within the statutory period. The submissions filed only before the Assessing Officer were treated as non est in the eye of law, and consequently, the Assessing Officer proceeded to pass the final assessment order under section 144C(3) of the Act. The relevant finding of the Assessing Officer is reproduced as under:

“The assessee being an eligible assessee u/s. 144C(15)(b)(ii) of the IT Act, 1961, the draft assessment order was passed on 11.03.2024 in his case as per the provisions of section 144C(1) of the I. T. Act, 1961 and delivered to the assessee on income tax e-filing portal as well as e-mail on 11.03.2024 for exercise of option



as provided in sec. 144C(2) of the Act. As per the provisions of section 144C(2) of the Income Tax Act, 1961 the assessee was required to, either file acceptance of the variations to the AO or file its objections before the Dispute Resolution Panel (DRP) and the Assessing officer, within 30 days from receipt of the draft assessment order. The assessee has uploaded its submission on the e-filing portal on 06.04.2024 in response to the draft assessment order passed u/s. 143(3) rws 147 rws 144C(1) of the Income Tax Act, 1961. The assessee has furnished submissions against the Draft Order. The assessee has neither stated that he has filed any objections before DRP nor furnished any proof of filing objection before DRP. The assessee has made a request to refer the matter to DRP. As per the Act, there is no provision to refer the matter to the DRP by the assessing officer. The objections have to be filed by the assessee before DRP with a copy marked to the AO. Also, the assessee has not stated or informed anything later about raising objections before DRP. No evidence is furnished in respect of filing of any objections before DRP. Since 30 days time has been elapsed in this case from the date of receipt of draft assessment order, the assessee now cannot file its objections before the DRP. The filing of submissions/objections only before AO is akin to no objections as per provisions of section 144C(3)(b) of the Act. The submissions made by the assessee after passing of the draft assessment order, cannot be considered by the assessing officer at this stage and therefore, the assessment order is hereby finalized under the provisions of section 144C(3) of the Income Tax Act, 1961, which is reproduced as under:-

The assessee has not filed return of income for Year under consideration.”

3. We have heard the rival submissions on the preliminary issue and have carefully examined the statutory scheme governing the remedy of appeal. Under section 253 of the Act, a direct appeal to the Income-tax Appellate Tribunal lies only against a final assessment order passed pursuant to the directions of the Dispute Resolution Panel under section 144C(5) of the Act. Where no objections are filed before the DRP and the final assessment order is passed by the Assessing Officer under section 144C(3), the



Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai