

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI "C" BENCH : MUMBAI

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER  
AND  
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No.	A.Y.	Appellant	Respondent
8389/Mum/2025	2016-17	Mrs. Parnal Nishant Mehar, B/4, Gautam Appt, Satbungalow, JP Road, Andheri West, Mumbai-400053. [PAN: AKXPM9553B]	ITO, Ward-42(3)(1), Mumbai
8264/Mum/2025	2016-17		

For Assessee :	Shri Chetan Jaiswal
For Revenue :	Shri Virabhadra Mahajan, Sr.DR

Date of Hearing :	25-02-2026
Date of Pronouncement :	09-03-2026

**ORDER**

**PER VIKRAM SINGH YADAV, A.M :**

These are two appeals filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’], dated 02-09-2025, pertaining to Assessment Year (AY) 2016-17.

2. At the outset, Ld.AR submitted that these two appeals are filed against the same order passed by the Ld.CIT(A), dt. 02-09-2025, which has been listed under separate ITA Numbers on account of the fact that one was filed on-line and the second was filed physically. It was accordingly submitted that the latter appeal may be dismissed as infructuous. The

Ld.DR is heard, who has not raised any objection. Hence, the appeal in ITA No. 8264/Mum/2025 is dismissed as infructuous.

3. Briefly, the facts of the case are that the case of the assessee was reopened basis information that she has sold immovable property and has also received salary income and in absence of filing of return of income, the income chargeable to tax has escaped assessment. Notice u/s. 148 of the Act was issued on 14-03-2023. There was no response from the assessee and further notices were issued from time to time and a show-cause was also issued, again, there was no compliance on the part of the assessee. The AO, thereafter proceeded and completed assessment *ex-parte qua* the assessee and passed the assessment order u/s. 147 r.w.s. 144 r.w.s. 144B of the Income Tax Act, 1961 ('the Act'), vide order dt. 31-01-2024.

4. As per the AO, the assessee has sold immovable property jointly with Nishant Laxmikant Mehar for Rs. 1,39,75,000/- and on perusal of the sale deed, it was noted that the property was held jointly by Nishant Laxmikant Mehar and the assessee and in absence of percentage of share of the assessee in the property, 50% of the sale consideration amounting to Rs. 69,87,500/- was considered for the purposes of computation of capital gains in the hands of the assessee and further given that the assessee has not responded to the show cause, the cost of acquisition of the property sold was taken as NIL and the full sale consideration of Rs. 69,87,500/- was brought to tax in the hands of the assessee as Long Term Capital Gain. Further an amount of Rs. 17,00,240/- was also brought to tax as income under the head 'salary' received from Jet Airways in absence of any

documentary evidences submitted by the assessee. Accordingly the assessed income was determined at Rs. 86,87,740/-.

5. Against the said order, the assessee carried the matter in appeal before the Ld.CIT(A), who has dismissed the appeal of the assessee on account of the fact that the assessee has not paid advance tax in terms of section 249(4) of the Act.

6. Against the said order and findings of the Ld.CIT(A), the assessee is in appeal before us.

7. During the course of hearing, the Ld.AR submitted that there is no dispute that the assessee along with her husband has sold an immovable property for a consideration of Rs. 1,39,75,000/-. It was submitted that the husband of the assessee Shri Nishant Laxmikant Mehar, has disclosed the full sale consideration on sale of immovable property as part of his return of income which was filed on 21-09-2016 and our reference was drawn to the copy of the return of income which has been placed on record wherein full value of the consideration has been shown at Rs. 1,39,75,000/-. It was submitted that the name of the assessee was added on account of love and affection, however, the property was actually owned by the husband of the assessee and the same has already been disclosed in the return so filed by him for the AY. 2016-17. It was accordingly submitted that where full value of the sale consideration has already been offered and brought to tax in the hands of the husband of the assessee, the same cannot be brought to tax again in the hands of the assessee and, therefore, necessary relief be provided to the assessee.

8. Regarding salary income from Jet Airways (India) Ltd., our reference was drawn to the assessment order and it was submitted that the AO has picked up the same transaction twice while completing the assessment and further, our reference was drawn to Form-16 issued by the Jet Airways (India) Ltd., wherein an amount of Rs. 8,59,720/- was shown as salary, which has been paid to the assessee and in respect of which the taxes have been duly deducted amounting to Rs. 20,030/-. It was accordingly submitted that the salary income has already suffered taxation in the hands of the assessee by way of tax deduction at source and, therefore, there is no further liability on the assessee in respect of the salary income.

9. Regarding findings of the Ld.CIT(A) in terms of non-discharge of advance tax liability it was submitted that firstly where the transaction has already been offered to tax in the hands of the husband of the assessee, there is no liability on the assessee towards the advance tax liability, secondly in terms of salary income, the same has already suffered taxation by way of TDS and on that account itself, there is no further liability of the assessee towards payment of advance tax. It was accordingly submitted that considering the aforesaid submissions, necessary relief be provided to the assessee and where required, the matter may be remitted to the file of the AO for necessary verification.

10. Per contra, the Ld.DR is heard, who has relied on the orders passed by the lower authorities. It was submitted that the assessee has been total non-compliant before the AO and even before the Ld.CIT(A) and at the same time, it was fairly submitted that where the transaction has already suffered taxation in the hands of the husband of the assessee as so

claimed by the Ld.AR and the fact that the salary income has also suffered taxation by way of TDS, the matter may be remitted to the file of the AO for necessary verification.

11. We have heard the rival contentions and perused the material available on record. Admittedly, the assessee has not complied to the various notices issued by the AO and even before the Ld.CIT(A), the appeal of the assessee has been dismissed summarily on account of non-payment of advance tax and at the same time, as submitted by the Ld.AR as far as the transaction relating to the sale of immovable property, the same has already suffered taxation in the hands of the husband of the assessee, who has filed return of income on 21-09-2016, well before the initiation of re-assessment proceedings in the hands of the assessee by issuance of notice u/s 148 on 14-03-2023 and, therefore, where the transaction has already suffered taxation, we find merit in the contention advanced by the Ld.AR that the same transaction cannot be brought to tax again in the hands of the assessee.

12. Regarding salary income, though there is no dispute that the same is taxable in the hands of the assessee, we find that the AO has apparently considered the same transaction twice given receipt of source of information from the same entity, Jet Airways (India) Ltd. and which has already suffered taxation by way of TDS as demonstrated by way of Form 16 issued by the said entity.

13. Given the fact that these documents were not available before the AO at the time of passing of the assessment order, we deem it appropriate to set aside the matter to the file of the AO for the limited purpose of

verification, where the same is found to be correct, the AO is directed to allow necessary relief to the assessee.

14. In the result, the appeal of the assessee in ITA No. 8389/Mum/2025 is allowed and appeal in ITA No. 8264/Mum/2025 is dismissed as infructuous.

Order pronounced in the open court on 09-03-2026

Sd/-  
[SANDEEP SINGH KARHAIL]  
JUDICIAL MEMBER

Sd/-  
[VIKRAM SINGH YADAV]  
ACCOUNTANT MEMBER

Mumbai,  
Dated: 09-03-2026

*TNMM*

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar  
I.T.A.T, Mumbai