

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "C": NEW DELHI  
BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.3090/Del/2025  
(Assessment Year: 2010-11)

|  |     |                             |
|--|-----|-----------------------------|
| Sudhir Awana,<br>F-15, Sector 20, Gautam<br>BNuddha Nagar, Noida | Vs. | ACIT,<br>Circle-3,<br>Noida |
| (Appellant)  |     | (Respondent)                |
| <b>PAN: ABMPA0354N</b>   |     |                             |

|                       |                         |
|-----------------------|-------------------------|
| Assessee by :         | Shri Pancham Sethi, CA  |
| Revenue by:           | Shri Om Prakash, Sr. DR |
|                       |                         |
| Date of Hearing       | 13/01/2026              |
| Date of pronouncement | 11/03/2026              |

O R D E R

**PER M. BALAGANESH, A. M.:**

1. The appeal in ITA No.3090/Del/2025 for AY 2010-11, arises out of the order of the Id Commissioner of Income Tax (Appeals)/ Addl/JCIT-(A)-1, Gurgaon [hereinafter referred to as 'Id. JCIT(A)', in short] dated 23-01-2025 against the order of assessment passed u/s 143(3)/ 147 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 22-12-2017 by the Assessing Officer, ACIT, Circle-3, New Delhi (hereinafter referred to as 'Id. AO').

2. At the outset, we find that there is a delay in filing of appeal by the assessee before us by 38 days. Considering the reasons adduced in the condonation petition, in the interest of substantial justice, we hold that assessee was prevented from sufficient cause in not filing the appeal in time before us. Hence, we are inclined to condone the delay and admit the appeal of the assessee for adjudication.

3. The effective issue to be decided on merits in this appeal is as to whether the learned CITA was justified in confirming the action of the learned AO in disallowing the sum of Rs. 8,02,255 being the cost of improvement of property and the commission expenses of Rs. 98,000 as expenses incurred on transfer while computing the capital gains along with disallowing the cost of acquisition of Rs. 6,61,700 being the amounts paid for acquisition in cash, in the facts and circumstances of the instant case.

4. We have heard the rival submissions and perused the materials available on record, first up. The assessee is engaged in the business of providing transportation services. The return of income for the assessment year 2010-11 was filed by the assessee on 18-10-2010 declaring total income of Rs. 37,01,270. The case of the assessee was sought to be reopened under section 148 of the Act on 29-3-2017. In the reassessment, the learned AO made the following disallowances:-

- a) cost of improvement of the property – Rs 8,02,255
- b) Commission expenses incurred in cash in connection with the property – Rs 98,000
- c) Cost of acquisition of property in cash - Rs 6,61,700

As per the statement of facts enclosed along with the Form No. 36, we find that Assessee had purchased a property on 13-10-2009 for Rs. 41 lakhs. The Assessee had also incurred a sum of Rs. 8,02,255 on repairs and renovation of the said property. After getting it renovated, the Assessee proceeded to sell the said property on 14-11-2009 at a price of Rs. 57 lakhs. The Assessee also paid commission of Rs. 98,000 on sale of said property. We find that the learned CITA had dismissed the appeal of the Assessee without securing the presence of the Assessee or his authorised

representative. The learned CITA had also not adjudicated the issue in dispute before him independently on merits. The learned AR requested the Bench that the Assessee would want to place on record the Savings Bank Account Statement to explain the complete source of incurrence of cost of acquisition, cost of improvement and commission had prayed for restoring the appeal to the file of the learned AO. When this was put to the learned DR, he fairly agreed to restoring the appeal to the learned AO. Considering the same, we deem it fit and appropriate, in the interest of justice and fair play, to restore this appeal to the file of the learned AO for denovo adjudication in accordance with law. The Assessee is given liberty to furnish fresh evidences, if any, in support of his contentions.

5. The Assessee had also raised certain grounds challenging the validity of assumption of jurisdiction under section 147 of the Act. But since the entire assessment is restored to the file of the Learned AO, the Assessee is given liberty to address the legal issues also before the Learned AO.

6. In the result, the appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open court on 11/03/2026.

-Sd/-

**(CHALLA NAGENDRA PRASAD)**  
**JUDICIAL MEMBER**

-Sd/-

**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 11/03/2026  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT

4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi