

IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHANDIGARH

HYBRID HEARING

BEFORE HON'BLE SHRI LALIET KUMAR, JM
AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं. / ITA No.676/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2018-19)

Ms. Adeshjeet Pal Kaur K. No. 49, Phase VII, Mohali Punjab - 160061	बनाम/ Vs.	Pr. CIT Chandigarh – 1 Chandigarh - 160017
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ALNPK-0544-M		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. A.K. Sood (CA) – Ld. AR (Virtual)
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. Manav Bansal (CIT) – Ld. DR

सुनवाईकीतारीख/ Date of Hearing	:	10-03-2026
घोषणाकीतारीख / Date of Pronouncement	:	11-03-2026

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. By way of this appeal, the assessee assails invocation of revisionary jurisdiction u/s 263 by Ld. Pr. Commissioner of Income Tax, Chandigarh-1 (Pr. CIT) for the Assessment Year (AY) 2018-19 vide impugned order dated 11-03-2025 proposing revision of an assessment as framed by Ld. Assessing Officer [AO] u/s.147 r.w.s. 144B of the Act on 14-03-2023 accepting the returned income of the assessee.

2. The Ld. AR advanced arguments supporting the assessment order and made out a case of one of the possible views as taken by Ld. AO during the course of regular assessment proceedings. The Ld. AR contended that sufficient explanations and documents were already furnished by the assessee during the course of regular assessment proceedings itself. It was further contended that the case was specifically reopened to examine the issue as flagged by revisionary authority. The Ld. CIT-DR, on the other hand, advanced arguments supporting the impugned revisionary order. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

3. From the case records, it emerges that the assessee's case was reopened and notice u/s 148 was issued to the assessee on 31-03-2022. The reopening was on the ground that the assessee did not file return of income whereas the assessee had sold immoveable property for a consideration of Rs.75.75 Lacs. To examine the same, the case was reopened and notices u/s 142(1) was issued from time to time calling for various details and explanations from the assessee. The same were duly responded to by the assessee. It transpired that the assessee sold plot bearing no.1608 measuring 1000 square yards in Mohali. The plot was allotted to the assessee vide allotment letter dated 23-10-2015 by Janta Land Promoters Pvt. Ltd., Mohali. The details of her investment has been tabulated by Ld. AO at para 3.2 of the assessment order. The Ld. AO observed that initial money of Rs.1 Lacs was paid by the assessee on 06-01-2011 which was followed by

various payments on various dates. The payments so made aggregated to Rs.64.25 Lacs. The assessee furnished copy of allotment letter, possession letter, bank statements, copy of sale deeds etc. to substantiate her claim and contended that since the first payment / booking amount was paid on 06-01-2011, therefore, the resultant gains / loss would be Long Term only. The relevant portion of assessee's replies, in this regard, has been extracted in the assessment order. Concurring with the same, Ld. AO accepted the claim of the assessee qua computation of capital loss.

4. This assessment order has been subjected to impugned revision u/s 263 on the ground that as per allotment letter, the assessee was given allotment only on 23-10-2015 and the plot was sold on 19-05-2017. Considering the fact that the holding period was less than 24 months, the plot would be short term capital asset only and Ld. AO did not make necessary verification / enquiry. Therefore, the assessment order was set aside and Ld. AO was directed to make requisite enquiries and proper verification of this issue. Aggrieved, the assessee is in further appeal before us.

5. From the facts, it clearly emerges that the assessee being a housewife did not file her return of income. The case was specifically reopened to examine the issue of sale of plot for Rs.75.75 Lacs. Though the allotment of the plot was formally given on 23-10-2015, however, the initial booking amount was paid by the assessee on 06-01-2011. Thereafter, substantial payment of Rs.0.50 Lacs, Rs.29.75 Lacs and Rs.14.25 Lacs has been made by the assessee before

March, 2015. In our considered opinion, the allotment was mere improvement of an existing right of the assessee whereas the right / interest in the plot stood created well before the date of allotment. The allotment would relate back to the date of initial booking done by the assessee when an enforceable right in a specific property stood created in favor of the assessee. Further, capital asset as defined in Sec.2(14) means property of any kind as held by an assessee, whether or not connected with his business or profession. The definition is wide enough to include the rights which vested in the assessee to acquire a certain property at the time of making initial payment only. Even otherwise, the assessee had furnished all the supporting documents, computations etc. during the course of assessment proceedings itself. A specific query was raised by Ld. AO on the flagged issue which was duly been responded to by the assessee. Considering the same, Ld. AO accepted the claim of the assessee with due application of mind. The view of Ld. AO could be said to be one of the possible views and the said view is not shown to be perverse. Therefore, the impugned revision of the order could not be held to be justified.

6. The Hon'ble Delhi High Court in the case of **ITO vs. DG Housing Projects Ltd. (343 ITR 329)** held that AO is both an investigator and an adjudicator. A distinction has to be drawn between a case where the AO has not conducted any enquiry or examined any evidence whatsoever ("lack of inquiry") from one (i) where there is enquiry but the findings are erroneous; and (ii) where there is failure to make proper or full verification or enquiry ("inadequate inquiry"). The fact that

the assessment order does not give any reasons for allowing the claim is not by itself indicative of the fact that the AO has not applied his mind on the issue. All the circumstances have to be seen. A case of lack of enquiry would by itself render the order being erroneous and prejudicial to the interest of the revenue. In a case where there is inquiry by the AO, even if inadequate, the CIT would not be entitled to revise u/s 263 on the ground that he has a different opinion in the matter. The ratio of this decision squarely applies to the facts of present case before us and duly supports the case of the assessee.

7. Considering the above facts and settled legal position, the impugned revisionary order u/s 263 could not be sustained in law. We order so. The original assessment order as framed by Ld. AO on 14-03-2023 stand restored.

8. The appeal of the assessee stand allowed.

Order pronounced on 11th March, 2026.

-Sd-
(LALIET KUMAR)
JUDICIAL MEMBER

-Sd-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated: 11-03-2026

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH