

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E': NEW DELHI**

**BEFORE
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER
AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

ITA No.1554/Del/2025, A.Y. 2013-14

Kamla Yadav House No. 340 Village Shakurpur, Delhi-110034 PAN: AAAPY6730B (Respondent)	Vs.	ACIT Assessment Unit New Delhi (Appellant)
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Appellant by	Sh. V.K.Tulsiyan, CA
Respondent by	Ms. Suman Malik, CIT-DR

Date of Hearing	04/02/2026
Date of Pronouncement	10/04/2026

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

1. This appeal is filed by the assessee /appellant against the order of Learned Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre (NFAC), New Delhi [hereinafter referred to as the “CIT(A)”], passed under section 250 of the Income Tax Act, 1961 [hereinafter referred to as “the Act”] dated 27.01.2025 for the A.Y. 2013-

14, wherein the addition made vide assessment order dated 28.05.2023 were confirmed.

- 2.** The facts in brief as culled out from the order of the authorities below are that the assessee is an individual and filed its ITR for A.Y. 2013-14 on 26.07.2013 declaring total income at Rs. 4,76,200/-. As per information available with the office, during the relevant assessment year, the assessee has purchased an immovable property for a sale consideration of Rs. 4,52,56,250/- on 19th November, 2012 and sold two Agricultural Lands for Rs. 7,83,00,625/- and Rs. 1,45,76,250/- (totaling to Rs. 9,28,76,875/-) on 16th August, 2012. Further, the assessee is stated to have given unsecured loan of Rs. 1 crore to Shri Nitya Nand which was not in consonance with the assessee's declared income. Accordingly, the assessment was reopened u/s 148 of the Act by issuing a notice dated 30.06.2022 and subsequent order u/s 148A(d) of the Act was passed on 30.06.2022. Accordingly, various notices to u/s 142(1), 143(2) of the Act were issued on different dates to which part reply was filed during the assessment proceedings. It was noticed by the Assessing Officer ('AO') that both the lands purchased and sold were capital assets and liable to the capital gain tax thereon and accordingly notices u/s 142(1) of the Act was issued asking the assessee as to whether the

tax has been offered on transaction of Rs. 9,28,76,875/-. In response to the said notice, the assessee vide response dated 20.04.2023 has stated that the agricultural land sold is not a capital assets within the meaning of section 2(14)(iii) of the Act. It was further stated that the sale of rural agricultural land was outside the ambit of definition of capital gains i.e LTCG and STCG; further, it is stated that the sum of Rs. 9,28,76,875/- has been reflected by the assessee in the return of income under the head 'exempt income' u/s 10 of the Income Tax Act for A.Y. 2013-14. During the assessment proceedings, the AO observed that land sold by the assessee was within 8 kilometers from the local limits of Sohana Municipal Limits. Hence, both the lands were capital assets. Accordingly, the show cause notice dated 17.05.2023 was issued asking the assessee to explain why the above two properties sold by her not be treated as capital assets. Further, the issue was referred to the Verification Unit of Income Tax Department to verify whether the two immovable property sold by the assessee qualified to be capital assets definition u/s 2(14) of the Act. The verification unit vide report dated 24.05.2023 reported that the property/land is situated at Sohana-187, Gurgaon, 7 Kanal, 16 Merla was within jurisdiction of a Municipality i.e. Sohana. Further reported that the land/property at village

Mohammadpur Gurjar, 185 Sohna, Gurgaon 52 Karnal is situated at a distance of 4 kilometers from the municipality of Sohana it was therefore, reported that both land qualifies to the capital assets for the purpose of the definition u/s 2(14) of the Act. The verification unit also furnished a certificate of Patwari and Tehsildar in support of its report. It was further observed that it was evident from the assessee's sale deed of the land sold was not to agricultural purposes. As it was sold to M/s. Sidhanta Infracon Pvt. Ltd. which is in Real State Business, accordingly both the land, the value of Rs. 9,28,76,175/- was treated as capital asset u/s 2(14) of the Act and the said amount was made to the income of the assessee. Further, it was observed that the source of loan given Rs. 1 crore by the assessee was not proved, hence, the sum of Rs. 1 crore was treated as unexplained money within the meaning of Section 69A r.w.s. 115BBE of the Act. Accordingly, added to the total income of the assessee.

- 3.** Aggrieved by impugned assessment order, the assessee filed appeal before the Ld. CIT(A). The ld. CIT(A) has dismissed the appeal observing that the assessee has not filed any ITR in response to notice u/s 148 of the act. Hence, the impugned order was passed u/s 147 r.w.s. 144B of the Act. Since, the ITR was not filed in response to Section 148

of the Act, accordingly, as per section 249(4)(b) of the Act, the assessee was required to make the payment of amount equal to the amount of advance tax the appeal was not to be admitted. Since the appellant has not filed ITR and has also not complied section 249(4)(b) of the Act. Therefore, the appeal was not admitted and dismissed in limine.

4. Aggrieved by the impugned order, the assessee is in appeal raising following grounds:

“1. That on the facts and in the circumstances of the case, the order passed by the Ld. CIT(A), NFAC under section 250 of the Income Tax Act is bad in law and on facts, in as much as it is not in accordance with the mandate of section 250(6). Therefore, the order deserves to be quashed.

2. That on the facts and in the circumstances of the case, the order passed by the Ld. CIT(A), NFAC under section 250 of the Income Tax Act is bad in law and on facts, as the Ld. CIT(A), NFAC has grossly erred in summarily dismissing the appeal by passing a non-speaking order, without adjudicating the Grounds of Appeal raised by the Appellant. Therefore, the order deserves to be quashed.

3. That the Ld. CIT(A), NFAC has grossly erred in passing an order that is contrary to the record and law by wrongly interpreting the provisions of law on various sections suo moto. Hence, the order deserves to be quashed.

4. That the Ld. CIT(A) has erred on facts and in law by upholding the jurisdiction under section 147 merely on the basis of a piece of information available in the public domain without examining the facts already on record. The assessment has been completed suo moto, rendering it void-ab-initio and without examining the submissions made in the right perspective. Therefore, the order deserves to be quashed.

5. That the Ld. CIT(A) has erred on facts and in law by not appreciating the facts on record, including the Income Tax Return (ITR) filed and the details of

capital gains on the transfer of agricultural land, which is itself not a capital asset. This fact is clearly established from the balance sheet, bank details, Patwari certificate, land papers, and various submissions made by the Appellant. Therefore, the entire addition of Rs. 9,28,76,875 as exempt income is liable to be deleted.

6. That the Ld. CIT(A), NFAC has erred on facts and in law by upholding the addition of Rs. 1,00,00,000 as unexplained money under section 69A.

7. That the Ld. CIT(A) has erred on facts and in law by not adjudicating the issue of jurisdiction. Further, the order is beyond the period of limitation; hence, it is liable to be quashed.

8. That the Ld. CIT(A) has erred on facts and in law by not adhering to or examining the basic facts of the case. Therefore, the order is liable to be quashed.

9. That the Ld. CIT(A) has erred on facts and in law by passing an order confirming the Assessing Officer's order, which is itself contrary to the provisions of section 2(14) and section 69A. Therefore, the order is liable to be quashed.

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

- 5.** We have considered the rival submission and examined the record. The Ld. AR, at the very outset submitted that the impugned order had resulted into miscarriage of justice, as the appeal was dismissed without issuing of notice to the assessee, in violation of Section 250(2)(a) as well as Section 250(6) of the Act. It is therefore prayed that matter be restored to the file of the Ld. CIT(A).
- 6.** On the other hand, Ld. DR supported the judgement of the Ld. CIT(A) stating that Ld. CIT(A) has rightly refused to admit the appeal as

necessary compliance for admission of the appeal was not done by the assessee.

7. We have heard the Ld. AR and Ld. DR and examined the record. The CIT(A) in his order has observed that since the assessee has not filed return of income as well as not paid an amount equal to the amount of advance tax which was payable by it, hence, not admitted the appeal and dismissed the same on this count, without deciding the appeal on merits of the case. Even otherwise, the Id. CIT(A) has not issued any notice u/s 250(2)(a) of the Act, which is in violation of principle of natural justice and is violation of statutory provisions.
8. In view of the aforesaid factual matrix, we find that the power of first appellate authority are co-terminus to that of the Assessing Officer and it is incumbent upon the Id. CIT(A) to decide the appeal on merits or remand the case to the Assessing Officer for his afresh adjudication, which he has failed to do so. It is therefore deemed appropriate in the larger interest of justice to restore the assessee's instant appeal back to the Id. CIT(A) for it's afresh appropriate adjudication, after giving adequate opportunity of being heard to the assessee. The assessee is also directed to fully cooperate with the Ld. CIT(A) during the

proceedings and file all the necessary documents, if any, before the Ld. CIT(A), in accordance with law. Ordered accordingly.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in open Court on 10th April, 2026

Sd/-
(AMITABH SHUKLA)
ACCOUNTANT MEMBER

Sd/-
(RAJ KUMAR CHAUHAN)
JUDICIAL MEMBER

Dated: 10/04/2026
Binita, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT/PCIT
4. CIT(Appeals)
5. Sr. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI