

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI PARESH M. JOSHI, JUDICIAL MEMBER**

**ITA No.677/Ind/2025**  
**Assessment Year:2019-20**

Sharad Chhaiya, 4, Shri Mangal Nagar, Indore	<b><u>बनाम/</u></b> Vs.	ITO 2(1) Indore
(Assessee/Appellant)		(Revenue/Respondent)
<b>PAN: AJJPC2835P</b>		
Assessee by	Shri S.S. Solanki, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	13.04.2026	
Date of Pronouncement	17.04.2026	

**आदेश / O R D E R**

**Per B.M. Biyani, A.M.:**

Feeling aggrieved by order of first appeal dated 04.07.2025 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 24.03.2024 passed by learned ITO-2(1), Indore ["AO"] u/s 147 of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2019-20, the assessee has filed this appeal.

2. The background facts leading to present appeal are such that the assessee filed his return of income of AY 2019-20 u/s 139 declaring a total income of Rs. 8,22,720/- which was assessed. Subsequently, on the basis of information in his possession received from material seized by departmental

authorities in a search conducted upon "Omaxe Group" of Indore, the AO came to know that the assessee booked Unit No. DHBI/246 and paid cash amounting to Rs. 4,35,000/- to the Omaxe/seller. Accordingly, the AO formed a belief that the payment of Rs. 4,35,000/- represented undisclosed income of assessee which had escaped assessment. On this basis, the AO issued notice dated 31.03.2023 u/s 148 to re-open assessee's case u/s 147. In response to notice, the assessee filed return repeating the original income of Rs. 8,22,720/-. Thereafter, the AO issued notices u/s 143(2)/142(1) in response to which the assessee made submissions. The assessee denied making any such payment as alleged by AO. However, the AO rejected assessee's submission and treated the alleged payment of Rs. 4,35,000/- as unexplained investment u/s 69 r.w.s. 115BBE, accordingly made addition and completed assessment. Aggrieved, the assessee went in first-appeal and raised several objections challenging the legality of assessment framed by AO as well as the merit of addition. However, the assessee did not get any relief from CIT(A). Now, the assessee has come in next appeal before us.

3. During hearing before us, Ld. AR for assessee at first raised a preliminary objection that the AO issued notice u/s 148 dated 31.03.2023 without first following the mandatory procedure of section 148A, therefore the notice issued u/s 148 and consequent assessment-order passed u/s 147 are invalid and liable to be quashed. The assessee raised following ground in first-appeal before CIT(A):

*"4. That the notice issued under section 148 of the Income Tax Act, 1961, dated 31.03.2023 is bad in law and liable to be quashed, as the mandatory procedure laid down under section 148A of the Act has not been followed. The notice so issued being illegal and wrong. The same require to be quashed."*

However, the CIT(A) has not decided above ground of assessee, therefore the order of CIT(A) deserves to be set aside.

4. Ld. AR next submitted that the AO has framed assessment/made addition alleging the material found in the search of "Omaxe Group". The AO has re-produced the material alleged to have been found in search on Page 5 of assessment-order, which is basically an excel sheet containing the details of cash collected by Omaxe/seller from different buyers of housing units, but the said material extracted by AO is not readable. Further, just below such excel sheet, the AO has quoted names of (i) Kartikey Singh, (ii) Ashok Singh Yadav, and (iii) Rajneesh Jain, as the buyers whose names appear in the excel sheet and notably, the assessee's name does not figure anywhere. Ld. AR also drew our attention to a Certificate dated 15.04.2024 placed at Page 57 of Paper-Book as an additional evidence. This certificate is issued by Omaxe/seller confirming that no payment in cash was made by assessee. It was accordingly submitted that the foundational premise of the re-assessment that the seized material implicates present assessee, appears to be without any basis.

5. Therefore, Ld. AR submitted, in the situation it would be most appropriate to restore this case to the file of Jurisdictional Assessing Officer

(JAO) for a fresh adjudication. He assured that the assessee shall extend full co-operation to JAO and make an effective representation.

6. Ld. DR for revenue though dutifully supported the orders of lower authorities but ultimately, considering the objections raised by Ld. AR, left the matter to the wisdom of bench without raising any objection against remand to JAO.

7. We have heard both sides and carefully perused the material available on record. In so far as the preliminary legal issue is concerned, we note that the mandatory nature of the procedure prescribed in section 148A, introduced by the Finance Act, 2021 w.e.f. 01.04.2021, has been consistently affirmed by various High Courts and by Tribunal. The scheme of section 148A requires the AO to, inter alia, conduct enquiry with prior approval of the specified authority; provide the assessee an opportunity to be heard by way of a show-cause notice; and thereafter pass a reasoned order u/s 148A(d) before issuing notice u/s 148. Non-observance of this mandatory procedure ordinarily vitiates the entire re-assessment proceedings. We note that the assessee had specifically raised this grievance before Ld. CIT(A) but the Ld. CIT(A) has not given adjudication. This is a lapse on the part of CIT(A). The order of the CIT(A) is, therefore, unsustainable on this ground alone. Additionally, on merits, we find force in submission of Ld. AR that the material allegedly seized from Omaxe/seller, re-produced in assessment order, is not legible. Furthermore, the AO's own enumeration of the buyers' names appearing in the seized excel sheet, does

not include assessee's name. This raises a significant doubt about whether the seized material actually implicates assessee at all and whether the foundational "information" for re-opening the assessment satisfied the threshold required u/s 148/148A of the Act. Considering the facts and circumstances in their entirety, particularly the undecided legal ground regarding non-compliance with section 148A; the illegibility of the seized material as reproduced; the additional evidence filed by assessee; and given that both sides are agreeable to a remand, we deem it appropriate to set aside the orders of both the lower authorities and restore this matter to the file of the Jurisdictional Assessing Officer (JAO) for a fresh consideration in accordance with law. We direct the JAO to afford the assessee a fair and reasonable opportunity of being heard and pass a reasoned order dealing with all submissions made by assessee. The assessee is directed to extend full and effective co-operation to the JAO and appear/respond promptly in response to all notices issued by the JAO.

**8. Resultantly, this appeal is allowed for statistical purposes.**

Order pronounced in open court on 17/04/2026
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Sd/-

(PARESH M. JOSHI)  
JUDICIAL MEMBER  
Indore

Sd/-

(B.M. BIYANI)  
ACCOUNTANT MEMBER

दिनांक /Dated : 17/04/2026

Patel/Sr. PS

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order  
Assistant Registrar  
Income Tax Appellate Tribunal  
Indore Bench, Indore