

**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.341/Ind/2025**  
**Assessment Year:2011-12**

Narmada Prasad Malviya, 127-A Malviya Nagar, Bhopal	<b><u>बनाम/</u></b> Vs.	ITO 1(4) Bhopal
(Assessee/Appellant)		(Revenue/Respondent)
<b>PAN: AFQPM6287A</b>		
Assessee by	Shri Apurva Mehta, 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 14.02.2025 passed by learned Commissioner of Income-Tax (Appeals)-Addl/JCIT(A)-Bengaluru ["CIT(A)"] which in turn arises out of assessment-order dated 26.11.2018 passed by learned ITO-1(4), Bhopal ["AO"] u/s 147 r.w.s. 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2011-12, the assessee has filed this appeal.

2. The background facts leading to present appeal are such that the AO, on the basis of information in his possession from AIR revealing that the assessee deposited cash of Rs. 13,64,000/- in a/c with SBI, issued notice

dated 28.03.2018 u/s 148 to make assessment u/s 147. In response to such notice, the assessee filed his return of income declaring a total income of Rs. 1,86,250/-. Thereafter, the AO issued notices u/s 143(2)/142(1) in response to which the assessee made submissions. The AO also called details directly from SBI u/s 133(6). In so far as the source of deposits of Rs. 13,50,000/-, the assessee submitted that he sold his house situated at 2/5B-5, M/s Sahara India Commercial Corporation Limited ["Sahara"], Bhopal, to one Shri Mukesh Joshi for Rs. 15,00,000/- and received consideration of Rs. 9,50,000/- on 20.06.2010 (+) Rs. 5,50,000/- on 15.08.2010, which was utilized for making deposits in bank a/c. The assessee also filed cash flow statement to AO [Para 4 of assessment-order]. The AO considered assessee's submission and examined Shri Mukesh Joshi u/s 131. The statements of Mukesh Joshi were recorded by AO which are re-produced on Page 6 of assessment-order. Shri Mukesh Joshi denied having made any purchase of house from assessee. Ultimately, after taking into account statements of Shri Mukesh Joshi, the AO rejected assessee's submission and treated the cash deposits of Rs. 13,64,000/- in bank a/c as unexplained money u/s 69A, accordingly made addition and completed assessment. Aggrieved, the assessee went in first-appeal but did not get any success. Now, the assessee has come in next appeal before us.

3. During hearing before us, Ld. AR for assessee made following submissions:

- (i) That, the assessee booked/purchased a house/unit No. 2/5B-5 with Sahara. The assessee sold/transferred his booking right to Mr. Rajendra Kumar Jain through broker Shri Mukesh Joshi. However, the assessee, due to his limited understanding, got impression that the said house/unit was sold to Shri Mukesh Joshi. Hence, there was no sale to Shri Mukesh Joshi, the sale was to Mr. Rajendra Kumar Jain. To establish this correct fact, the assessee has filed a Confirmatory Certificate dated 14.10.2010 issued by Sahara wherein Sahara has confirmed that the assessee's booking was transferred in the name of Mr. Rajendra Kumar Jain. Further, a payment of 2% of unit price was also made to Sahara towards transfer fee. The Payment Schedule of Sahara is also filed. These documents are filed at Pages 1-3 of Paper-Book.
- (ii) That, the assessee was under distressed circumstance since his son suffered from a serious disease (and unfortunately expired also untimely) and hence the booking of house/unit was sold to arrange finance. Further, assessee's wife Smt. Asha Malviya has also expired adding more challenges to assessee.

4. Therefore, Ld. AR submitted, the case of assessee requires a fresh adjudication by AO taking into account correct facts. Ld. AR prayed to restore this case to the file of Jurisdictional Assessing Officer (JAO). He assured that the assessee shall extend full co-operation to JAO and make an effective representation.

5. Ld. DR for revenue though dutifully supported the orders of lower authorities but ultimately, considering the facts of case and compelling circumstances being faced by assessee, left the matter to the wisdom of bench without raising any objection against remand to JAO.

6. We have heard both the sides and carefully perused the material on record. The core dispute revolves around cash deposits of Rs. 13,64,000/- made by the assessee in his SBI bank account during AY 2011-12, which the AO treated as unexplained money u/s 69A. The AO's rejection of the assessee's explanation was primarily based upon the statement of Shri Mukesh Joshi recorded u/s 131 wherein Shri Mukesh Joshi categorically denied having purchased any house from assessee. However, a crucial fact has now emerged before us, which was not brought to the attention of the lower authorities in the correct perspective at the relevant time. As per the clarification now advanced by Ld. AR, the assessee had booked/purchased a house/unit No. 2/5B-5 from Sahara and the said booking-right was subsequently transferred/sold not to Shri Mukesh Joshi personally, but to one Shri Rajendra Kumar Jain, with Shri Mukesh Joshi acting merely as a broker/middleman facilitating the transaction of sale. The assessee, due to limited understanding of real estate transaction procedures, erroneously represented before AO that the house was sold to Shri Mukesh Joshi, which naturally led Shri Mukesh Joshi to deny any purchase having been made from assessee. In support of this corrected version of facts, the assessee has placed on record certain documents as narrated by us in earlier para 3(i) of

this order. Those documents emanating from Sahara itself, a third-party corporate entity, carry significant evidentiary weight and prima facie corroborate the assessee's revised and clarified explanation regarding the source of the impugned cash deposits.

7. We further observe that the AO has not assessed the capital gain which arose to assessee from impugned transaction of transfer/sale of house/unit. On a query raised by bench, Ld. Representatives of both sides accepted that the resultant capital gain has to be assessed.

8. Furthermore, the Ld. DR for the Revenue, while dutifully supporting the orders of the lower authorities, did not raise any specific objection to the matter being remanded to the file of the JAO for fresh adjudication in light of the fresh/clarified facts and documentary evidence now available on record.

9. In view of foregoing, we are of the considered opinion that the matter warrants a fresh adjudication by JAO. The JAO shall examine the documents filed by assessee. He may also make necessary enquiries from Shri Rajendra Kumar Jain regarding purchase of the impugned house/unit from assessee. Thereafter, the JAO shall pass a fresh order in accordance with law after affording assessee a reasonable opportunity of being heard. The assessee, through his Ld. AR, has assured full co-operation and effective representation, and we expect that such assurance shall be honoured. Accordingly, the matter is restored to the file of the JAO for a

fresh adjudication in light of the observations made hereinabove, keeping all issues open.

**10. Resultantly, this appeal is allowed for statistical purpose.**

Order pronounced in open court on 17/04/2026

Sd/-

(PARESH M. JOSHI)  
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)  
ACCOUNTANT MEMBER

**Indore**

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  
Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore