

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.375/Ind/2025
(AY: 2019-20)

Ali Asgar, 221/1, Badri Colony Near Narsingh Vatika, Silawato ka waas, Ratlam (PAN: BHSPA5967N)	<u>बनाम/</u> Vs.	CIT(A)
(Appellant)		(Respondent)
Assessee by	Shri Mohd. Kaid Kangsiwala, 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 Paresh M Joshi, J.M.:

This is an Appeal filed by the Assessee under section 253 of the income tax Act 1961, [herein after referred to as the Act for the sake of brevity] before this tribunal, as & by way of a second appeal .The Assessee is aggrieved by the order bearing No:-ITBA/NFAC/S/250/2024-25/1073660755(1) dated 24.02.2025 passed by the Ld. CIT(A) u/s 250 of the Act, which is hereinafter referred to as the “**Impugned order**”. The Relevant Assessment year is 2019-20 and the

corresponding previous year period is from 01.04.2018 to 31.03.2019.

2.

Factual Matrix

2.1 That as and by way of an Assessment order made **u/s 147 r.w.s 144B of the Act**, the total income of the Assessee was computed & assessed at **Rs. 24,06,685/-**. The Income as per the return of income filed was at **Rs.3,19,200/-**. Addition as computed **u/s 56(2)(x)** was as at **Rs.20,87,485/-**. The aforesaid assessment order bears number:- ITBA/AST/S/147/2023-24/1061255750(1) and that the same is dated 21.02.2024 which is hereinafter referred to as the **“Impugned Assessment Order.”**

2.2 That the Assessee being aggrieved by the aforesaid **“Impugned Assessment Order”** prefers the first appeal **u/s 246A of the Act** before the Ld. CIT (A) who by the **“Impugned Order”** has **dismissed** the first appeal of the Assessee on the grounds & reasons stated therein. The core

grounds & reasons for the dismissal of the first appeal were as under:-

4.2 Details of opportunities given:

Type of Notice/Communication	Date of Notice/Communication	Date of compliance given	Response of the assessee received/not received	Date response received	Response (Full/Part/adjourned)
Notice issued u/s 148	29/03/2023	28/04/2023	Yes	14/04/2023	Full
Notice issued u/s 143(2)	06/07/2023	20/07/2023	Yes	02/08/2023	Full
Notice issued u/s 142(1)	06/10/2023	23/10/2023	Yes	22/10/2023	Full
Notice issued u/s 142(1)	01/11/2023	07/11/2023	Yes	05/11/2023	Full
SCN	29/01/2024	05/02/2024	Yes	05/02/2024	Partial

5.0 During the appellate proceedings, following hearing notices u/s 250 of the IT Act were issued to the assessee:

- a) Hearing notice dated 11.06.2024 fixing hearing on 26.06.2024
- b) Hearing notice dated 11.07.2024 fixing hearing on 26.07.2024
- c) Hearing notice dated 27.12.2024 fixing hearing on 13.01.2025
- d) Hearing notice dated 30.01.2025 fixing hearing on 10.02.2025

All the notices were served on the e-mail id cakaide8541@gmail.com which is the primary email as per the latest return filed and a copy was also sent on the e-mail id kalderatlam@rediffmail.com which is the secondary email id as per e-filing profile of the appellant. The appellant did not respond to any of the hearing notices and no explanation/submissions were filed. Therefore, the appeal is disposed of on the basis of material available on record.

6. Decision

6.1 I have carefully considered the grounds of appeal, the statement of facts and the details mentioned in the impugned order. No submissions have been filed during the present appeal proceedings, despite numerous opportunities being provided, Grounds no. 1 and 2 relate to the addition of Rs. 20,87,485/- made u/s 56(2)(x), being the difference between the value of the property purchased as per registered sale deed and as per DLC rate. It is not in dispute that the appellant, along with other owners, had purchased the property in Udaipur for a registered value of Rs. 5,00,00,000/- and the deed was registered on 15.05.2018 i.e. during the year under consideration. Part payment has been made to the sellers and the appellant has also obtained possession of the property. These facts have not been disputed by the appellant as seen from the statement of facts or the grounds of appeal. The appellant has stated that only Rs. 1,62,00,000/- has been paid so far and that the balance amount was to be paid upon reconciliation of land area. The appellant has also uploaded a letter issued by the Nagar Nigam Udaipur to the effect that though permission had been sought for construction on 3001 sq ft, the appellant and other co-owners are found to be owners of only 1269 sq ft. This gave rise to a dispute with the original owners and civil suit is pending.

6.2 The above contention has been carefully considered. It is not in dispute that possession has been obtained by the appellant and his co-owners and that part payment has been made by cheque and the sale deed has been duly registered on 15.05.2018. No evidence has been filed to the effect that the sale deed dated 15.05.2018 stands cancelled. A copy of the civil suit has also not been filed. There is no material before me to conclude that though dispute may have arisen, transfer of the property does not stand completed as on date. Once transfer of immovable property is complete, the provisions of section 56(2)(x) come into operation and the difference between the price as per sale deed and the DLC rate becomes taxable in the hands of the purchaser. The AO has correctly added 10% of the difference in the hands of the appellant by invoking the provisions of section 56(2)(x). The addition of Rs. 20,87,485/- is hereby confirmed. Grounds no. 1 and 2 are dismissed.

6.3 Ground no. 3 is against initiation of penalty proceedings and is dismissed as being premature. Ground no. 4 is dismissed, being consequential.

7. In the result, the appeal is treated as dismissed."

2.3 The Assessee being Aggrieved by the "Impugned Order" has preferred the instant second appeal before this Tribunal

and has raised the following grounds of appeal in the form No. 36 against the **"Impugned Order"** which are as under:-

- 1. Whether On the facts and in the circumstances of the case and in law, the Ld. CIT(Appeals) has erred in confirming the addition made by the Ld. Income tax officer without considering our reply dt 05-02-2024 "In our case it is clearly stated in purchase deed that this deed is subject to receiving all the payments and any non-payment will amount to cancellation of deed as per (pg no 15 para 1 line 4)".*
- 2. Whether on the facts and in the circumstances of the case and in law. The Ld. CIT(Appeals) has erred in rejection our Reply to The Ld. Income tax officer without given proper Reason.*
- 3. Whether On the facts and in the circumstances of the case and in law, the Ld. CIT(Appeals) has erred in giving proper opportunity of being heard.*
- 4. The Demand made by the income tax officer is arbitrary, improper, unlawful, baseless and bad in law and the same be deleted*
- 5. Your Appellant reserves the right to add, alter, amend and/or withdraw any of the above grounds of appeal."*

3. **Record of Hearing**

3.1 The hearing in the matter took place before this Tribunal on 13.04.2026 when the Ld. AR for & on behalf of the Assessee appeared before us & interalia contented that the **"Impugned Order"** is bad in law, illegal & not Proper. It is passed in the violation of the principles of natural justice. It therefore deserves to be set aside. The Ld. AR has placed on the record of this Tribunal a paper book containing pages 1 to 162. The Ld. AR has also placed on the record of this

Tribunal a letter dated 10.04.2026 which we reproduced as below wherein following are core contentions amongst others:-

"1. The present matter involves immovable property transaction, which is under dispute and subject matter of civil litigation pending before the Hon'ble District Court, Udaipur.

2. The property has been purchased jointly with other co-owners, and the issues involved are common and interconnected.

3. It is submitted that appeal proceedings in the case of other co-owners are pending before the Ld. CIT(A), and therefore, the matter has direct bearing on multiple connected parties.

4. In view of the above facts, it is essential that the matter is heard after proper preparation and coordination, so that complete and correct facts can be placed before the Hon'ble Tribunal.

Therefore, the appellant humbly requests that the hearing fixed on 13.04.2026 may kindly be adjourned to be three month later date convenient to the Hon'ble Bench."

3.2 The Ld. AR then contended that the **"Impugned Order"** is an exparte order & read out para 5 of the impugned order which we have already extracted aforesaid. The Ld. AR also contended that assessee's reply & arguments were not considered as vide para 4.2 of the impugned order which too we have extracted above the requisite compliances are seen. The Ld. AR then submitted that in **all other cases 4 in numbers too[coowners]** are currently pending **hearing**

before the Ld. CIT(A) & it would be in the fitness of things that all cases with respect of the subject immovable property wherein there are other co-owners too be heard all together & decided according to law which all are pending before the Ld. CIT(A). Per contra the Ld. DR appearing for & on behalf of the revenue too submitted that in order too maintain consistency he concurs with the views expressed by the Ld. AR on this score. The hearing was then closed.

4. **Observations Findings & conclusions**

4.1 We have to decide the legality, validity and propriety of the **"impugned order"** basis records of the case & the rival submission canvassed before us.

4.2 We have carefully perused the records of the case and have heard the submissions.

4.3 We basis records of the case & after hearing & upon examining the rival contentions of the Ld. AR & the Ld. DR canvassed before us, are of the considered opinion that the **"Impugned Order"** deserves to be set aside as both the Ld. AR & the Ld. DR are at **adidem** that since other co-owners cases which

are pending hearing & final disposal before the Ld. CIT(A) be all taken up together along with the present case so that consistency, continuity & credibility is maintained & that the same would be in the interest of ends of justice. Accordingly we set aside the impugned order & remand the case back to the file of the Ld. CIT(A) who shall now decide all the cases of other coowners along with the present case of the assessee as the immovable property involved common. We however direct the assessee to give the details of other cases to the Ld. CIT(A) so that the matter could be clubbed together for the appropriate hearing.

4.4 In view of the above, we set aside the **“Impugned Order”** & remand the case back to the file of the Ld. CIT(A) on denovo basis. The assessee is also directed to place full & completed facts of the case along with documents, evidences before the Ld. CIT(A) before he/she takes up the matter for final hearing. The Ld. CIT(A) is directed to dispose of the present matter along with other matters now pending as expeditiously as possible.

5.1 In the result the **"Impugned order"** is set aside as and by way of remand back to the file of the Ld. CIT(A) on De novo basis with directions as aforesaid.

5.2. The appeal of the assessee is allowed for statistical purpose.

Pronounced in open court on 17.04.2026.

Sd/-

(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER

Sd/-

(PARESH M JOSHI)
JUDICIAL MEMBER

Indore

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

Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore