

**IN THE INCOME-TAX APPELLATE TRIBUNAL “A” BENCH,
MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
&
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**आयकरअपीलसं./ITA No.5439/MUM/2025
(निर्धारणवर्ष / Assessment Year :2017-18)**

ITO-19(1)(1) 501, 5 th Floor, Piramal Chambers, Lalbaug, Mumbai-400012.	v/s. बनाम	Amishi Mihir Doshi 41-A, 4 th Floor, Meher Apartments, Altamount Road, Cumballa Hill, Mumbai-400026.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AHBPD4783D		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Assessee by:	Mr. Prakash K. Jotwani
Revenue by:	Shri Surendra Mohan- Sr. DR

Date of Hearing	27.10.2025
Date of Pronouncement	10.11.2025

आदेश /O R D E R

PER RENU JAUHRI [A.M.] :-

This appeal is filed by the Revenue against the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as “CIT(A)”] dated 05.06.2025 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for Assessment Year [A.Y.] 2017-18.

2. The Revenue has raised the following grounds of appeal:

“1. "Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition of Rs.9,45,00,000/- made by the AO u/s. 69 of the income Tax Act, 1961, treating the same as unexplained investment, without appreciating that the assessee failed to discharge the onus of proving the source of such investment with supporting evidence, despite repeated opportunities".

2 "Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition made by the AO u/s 69 r.w.s 115BBE of the LT. Act, 1961 on account of unexplained investment for purchase of property to the tune of Rs. 9,45,00,000/-?"

3. "Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition made by the AO, u/s 69 r.w.s 115BBE of the IT. Act, 1961 on account of un-explained investment for purchase of property to the tune of Rs. 9,45,00,000/- but not considering the observation of the Apex Court in the case of R Mallika (2017) 79 Taxmann.com 117(SC), wherein it is held that the assessee had not discharged burden as regards source from which investment and same was rightly added to income of assessee?"

4. "Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in not appreciating the action taken by the AO for making this addition of Rs. 9,45,00,000/-, due to the fact that the assessee failed to substantiate evidence including details regarding sources of funds with relevant Bank Statement, instead the assessee has simply given a vague reply without any supporting evidence?"

"5. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in holding that the assessment order was invalid for non-compliance with the provision of Section 144B of the Act, without appreciating that sufficient opportunities were provided to the assessee, and such alleged procedural lapses, if any, did not vitiate the assessment

6. "Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) erred in holding that the entire purchase consideration for the impugned immovable property was paid by the assessee's husband and not by the assessee, without considering that the property stood purchased in the joint names and the assessee failed to produce the bank statement of the concerned account or any other credible documentary evidence to substantiate the claim."

7. "Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) erred in disregarding the finding of the AO that the assessee did not explain the nature and source of investment as per the mandate of section 69, thereby ignoring the deeming provisions under section 115BBE applicable to such unexplained income."

8. The appellant craves leave to add, alter, amend or withdraw any of the above grounds of appeal."

3. Brief facts of the case are that the assessee had not filed her return of income for A.Y. 2017-18. On the basis of information relating to purchase of immovable property worth Rs. 9,45,00,000/- by the assessee, available



on the Non-filers Monitoring System (NMS) of the department, a notice u/s 148 had been issued to her on 31.03.2021 requiring her to file a return of income. In response, the assessee filed her return declaring income of Rs. 43,861/-. The assessee submitted before the Ld.AO that she is a joint owner in the property which has been purchased by her husband, Mr. Mihir Doshi from his explained sources. It was further submitted that her husband was employed with Credit Suisse Securities (India) Pvt. Ltd. and had filed his return for A.Y. 2017-18 declaring income of Rs. 17,50,21,101/-. The entire consideration for the purchase of impugned property was paid by him and duly reflected in his return. Since the assessee did not submit copy of the statement of bank account from which the payment were made, Ld.AO added the entire amount of Rs. 9,45,00,000/- to the returned income of the assessee as unexplained investment u/s 68 of the Act and completed the assessment u/s 147 r.w.s. 144B at an income of Rs. 9,45,43,861/-.

4. Aggrieved, the assessee preferred an appeal before Ld. CIT(A). After considering the assessee's submissions on legal grounds as well as on the merits, Ld. CIT(A) allowed relief on merits with the following observations:

"I have gone through the facts of the case, the assessment order and the submission of the appellant.

It is a fact on record that in response to letter dated 27.02.2022 vide DIN No.ITBA/AST/F/142(1)/2021-22/1040155810(1) by the AO, the appellant had filed an adjournment petition on 02.03.2022 seeking time till 17.03.2022 for her response. The AO did not take cognizance of the said adjournment petition and issued another notice on 03.03.2022 vide DIN



No.ITBA/AST/F/142(1)/2021-22/1040327472(1). Eventually, the assessment was completed on 11.03.2022, by considering the amount of Rs.9,45,00,000/- as unexplained investment u/s 69 of the Act. The assessment order was finalized without forwarding a copy of draft assessment order to the appellant as required u/s 1448 of the Act. In the above facts, the appellant has raised ground nos.1 and 2 of appeal stating that due procedure, as set out in clauses (xiv), (xv) and (xvi) of section 144B have not been followed and that the appellant was not afforded with reasonable opportunity to represent her case by not taking cognizance to her adjournment petition dated 02.03.2022. The appellant also cited the decision in the case of Carrier Technologies India Ltd. Vs. DCIT (ITAT Mumbai -ITA No.822/Mum/2022) and Abacus Real Estate (P) Ltd. vs. Dy.CIT [2021] 133 taxmann.com 277 (Bom) and contended that the assessment order should be treated as non est.

In ground no.3, the appellant has challenged the addition of Rs.9,45,00,000/- made u/s 69. It is seen that the property in question, being Flat no.42-A and one car parking space on ground floor, Meher Apartments, Anstey Road, Off Altamount Road, Mumbai-400026 was purchased from one Mrs. Sherena R Khan and the purchase consideration was paid by Mr. Mihir Doshi vide two cheques dated 12.06.2014 and 28.07.2014. The copy of purchase deed was registered on 20.06.2016. Relevant portion of the purchase deed is reproduced below:”

“It is also seen from Form No.26AS of Mr. Mihir Doshi that TDS @ 1% in respect of the property purchased is reflected in Form No.26AS for AY 2017-18.

PART F - Details of Tax Deducted at Source on Sale of Immovable Property u/s 194IA/TDS on Rent of Property u/s 194IB/TDS on payment to resident contractors and professionals u/s 194M (For Buyer/Tenant of Property/Payer of resident contractors and professionals)

Sr. No.	Acknowledgment Number	Name Of Deductee	PAN of Deductee	Transaction Date	Total Transaction Amount	Total TDS Deposited***	Total Amount Deposited other than TDS
1	AD2235391	SHERENA RONI KHAN	AANPK4652R	20-Jun-2016	9450000.00	945000.00	0.00
Sr. No.	TDS Certificate Number	Date of Deposit	Status of Booking ⁴	Date of Booking	Demand Payment	TDS Deposited***	Total Amount Deposited other than TDS
1	XOTZTRK	07-Jul-2016	F	14-Jul-2016	No	945000.00	0.00
Gross Total Across Deductor(s)					9450000.00	945000.00	0.00

Therefore, on merit also, it is established that the purchase consideration was made by the husband of the appellant and the name of the appellant only appeared in the deed as a joint owner. In the circumstance, there is no reason that any addition can sustain in the hand of the appellant.”

- Aggrieved with the order of Ld. CIT(A), the revenue is in appeal before us. It has been submitted by the Ld.DR that the assessee had not discharged her onus to prove the source of impugned investments. Statement of relevant bank account was not produced and since she is a



joint owner of the property, addition has rightly been made by the Ld.AO in her hands.

6. On the other hand, Ld.AR has argued that all the relevant documents were filed before the Ld.AO. He has placed on record copies of the replies filed by the assessee before the Ld.AO along with requisite documents in the form of a paper book. These documents include copy of the return of her husband, Mr. Mihir Doshi, copies of his bank statement evidencing payments made during F.Y. 2014-15, copy of Form 26AS, purchase agreement etc. The TDS @ 1% was also deducted by the husband of the assessee and the same is reflected in his 26AS statement.

He has therefore, submitted that relief has been rightly allowed by Ld. CIT(A) and his order deserves to be upheld.

7. We have heard the rival submissions and perused the material available on record. After careful consideration of the facts of the case, we are of the considered view, that the assessee had filed requisite documents to show that the property was purchased by her husband out of his sources and assessee's name was merely added as a co-owner. Relevant documentary evidences have been filed by the assessee before the lower authorities. Accordingly, there is no justification to make any addition on this count in the hands of the assessee. We, accordingly, hold that Ld. CIT(A) has granted relief on merits to the assessee after due



consideration of the facts on record. We, therefore, uphold the order of
ld. CIT(A).

8. In the result, the appeal of the revenue is dismissed

Order pronounced in the open court on 10.11.2025.

Sd/-

PAWAN SINGH

(न्यायिक सदस्य/JUDICIAL MEMBER)

Sd/-

RENU JAUHRI

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 10.11.2025

Anandi.Nambi/Stenographer

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति//True Copy//
आदेशानुसार/ BY ORDER,

सहायक पंजीकार(Asstt. Registrar)

आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

