

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'A' CHANDIGARH

**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 879/CHD/2025

निर्धारण वर्ष / Assessment Year: 2011-12 &

S.A. No.07 of 2026

Hirdai Pal, SCO 80-81, Third Floor, Sector 17-C, Chandigarh.	Vs	The ITO, Ward 6(5), Mohali.
स्थायी लेखा सं./PAN NO: ABNPG2841B		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Assessee by : Shri T.N. Singla, CA

Revenue by : Shri Vivek Vardhan, Addl. CIT, Sr.DR

Date of Hearing : 25.03.2026

Date of Pronouncement : 15.04.2026

PHYSICAL HEARING

ORDER

PER RAJPAL YADAV, VP

The assessee is in appeal against the order of the ld. Commissioner of Income Tax (Appeals) [in short 'the CIT (A)'] dated 28.05.2025 passed for assessment year 2011-12.

2. At the very outset, ld. counsel for the assessee submitted that assessment order is without jurisdiction. While taking us through the record, he submitted that the AO had received an information through Annual Information

Wing that assessee has sold a house property situated at House No. 171, Sector 12, Panchkula. The Sale Deed was registered in the office of Sub Registrar, Panchkula. The assessee did not file the return and did not disclose capital gain on sale of house property for a consideration of Rs.1,20,20,000/- hence, a notice u/s 148 was issued by Shri S.S.Meena, ITO, Ward-5, Panchkula. Copy of the notice is available on page No. 23 of the Paper Book. The reasons recorded by ITO, Ward, Panchkula are available at page Nos. 29 to 31 of the Paper Book. The case record of the assessee was thereafter transferred to ITO, Ward-5 (4) Chandigarh who returned it back to ITO, Ward-5, Panchkula contending therein that this case has no jurisdiction with her. Copy of this communication is available on page 25. Thereafter, ITO, Ward, Panchkula has transferred this case to ITO, Ward 6(3) Mohali and copy of the letter is available on page 27. The ITO, Ward 6(5) Mohali has passed the impugned assessment order. The ld. counsel for the assessee submitted that assessee has the PAN and jurisdiction over him lies in Chandigarh because the address in the PAN is of Chandigarh. The ld. counsel for the assessee submitted that

if ITO, Ward-5, Panchkula was not holding jurisdiction then how he can take cognizance for issuance of a notice u/s 148 because this notice u/s 148 has been issued on 28.03.2018. Had this be treated as a notice without jurisdiction, then time limit to issue notice for assessment year 2011-12 would expire on 31.03.2018. The time limit is only for six years and six years would end on 31.03.2018.

2.1 In his second contention, the ld. counsel for the assessee submitted that for argument's sake, if it is assumed that this notice is valid, then how ITO, Ward-6, Mohali can pass the assessment order without there being transfer of assessment proceedings to him by a competent authority u/s 127 of the Income Tax Act.

3. The ld. DR on the other hand submitted that since assessee did not file return, therefore, notice was issued on the last known address which is reflected in the Sale Deed. Thus, notice issued by ITO, Ward-5, Panchkula is to be construed as a valid notice because PAN number is not being disclosed in the Sale Deed nor assessee filed the return. When we confronted him as to how the case is to be

transferred by the AO to ITO, Ward 6(5), Mohali, then he submitted that such transfer was made on the request of the assessee because jurisdiction over the assessee was in Mohali.

4. We have duly considered the rival contentions and gone through the record carefully. For the argument's sake, if we assume that it was not practically possible for the Revenue to lay its hand on the latest address of the assessee or which has been shown in the PAN record, then it has no other choice to issue notice on the last known address i.e. the address of Panchkula. Then also, the AO, Ward 5, Panchkula would be construed as having jurisdiction. If assessee has filed an application for transfer of the jurisdiction to ITO, Ward 6(5), Mohali, then this application ought to have been put up before the Competent Authority contemplated in Section 127 i.e. Pr. Chief Commissioner, Chief Commissioner or Pr. Commissioner, as the situation demands as per clause (1) and (2) of this Section. It is the Competent Authority who can transfer the jurisdiction from one AO to other AO. The AO has no jurisdiction to transfer a case from him to any

other AO. This has not been provided anywhere in the Income Tax Act.

4.1 As far as the contention of ld. DR is concerned that such jurisdiction has been transferred on the request of the assessee, we are of the view that this aspect has been dealt with by Hon'ble Gujrat High Court in the case of P.V.Joshi Vs CIT, Gujrat, reported in 113 ITR Page 22. Hon'ble Gujrat High Court has propounded that jurisdiction in an Authority cannot be infused by consent. It would also flow from the Statute. Otherwise, if such type of requests are being entertained, then there will be a total chaos in the assessment of income by different officers. The jurisdiction cannot be infused by consent or cannot be waived. In other words, it cannot be a ground that an assessee plead that he permits an Assessing Officer to pass assessment order in his case. This has happened in this manner. The assessment is without jurisdiction because no notice u/s 148 was being issued by ITO, Ward 6(5) Mohali well within the time limit contemplated in Section 149. Therefore, the impugned assessment order is not sustainable. Accordingly, we quash

the assessment order. Consequently, appeal of the assessee is allowed and additions made to his income are deleted.

5. In the result, appeal is allowed.

6. As far as Stay Application is concerned, that has become redundant because we have already decided the appeal itself.

7. In the result, Stay Application is rejected and appeal is allowed.

Order pronounced on 15th April, 2026.

Sd/-

Sd/-

(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

(RAJPAL YADAV)
VICE PRESIDENT

“Poonam”

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 आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

सहायक पंजीकार/ Assistant Registrar