

**THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "SMC" BENCH, AHMEDABAD**

**Before Ms. Suchitra Kamble, Judicial Member**

**ITA No. 1659/Ahd/2025  
Assessment Year 2018-19**

Manjulaben Rameshbhai Patel, A-4, Mayur Pankh Society, Satellite Road, Ambawadi, Ahmedabad, Gujarat-380015 PAN: ADIPP7056Q (Appellant)	Vs	The Income Tax Officer, Ward-3(3)(2), Ahmedabad (Respondent)
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**Assessee by: Shri Ramesh B. Patel, A.R.**

**Revenue by: Shri Rameshwar P. Meena, Sr. D.R.**

Date of hearing : 03-02-2026

Date of pronouncement : 15-04-2026

**आदेश/ORDER**

This is an appeal filed against the order dated 10-07-2025 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2018-19.

2. The grounds of appeal are as under:-

*“1. The order passed by the Ld. CIT (A) is against law, equity & justice.*

*2. The assessment order passed by the Ld. A.O. is bad & illegal as reassessment proceedings is void and illegal as notice issued u/s 148 of the Act by JAO instead of AO of National Faceless Assessment Centre.*

*3. Assessment order passed by the Ld. A.O. is void & illegal as reopening of assessment is made in violation of section 149(1)(b) of the Act.*

4. *Ld. CIT (A) has erred in law and or on facts in confirming the additions made by AO relying only on valuation of immovable property by D.V.O. which is based only on rates available on Garvi Gujarat Website and hence unjustifiable and against the natural justice.*

5. *The appellant Craves liberty to add, amend, alter or modify all or any grounds of appeal before final appeal.*

*Total tax effect Rs. 8,53,225/-”*

3. The assessee is an individual and has filed return of income u/s. 139(1) of the Act. As per the information, the assessee has entered into transaction of sale of immovable property and has a substantial income amounting to Rs. 3,36,00,000/- the Assessing Officer issued statutory notices and the assessee filed the reply along with copy of ITR-5 and income computation, copy of Niddhi Co-operative Bank account, statement of ADC Bank passbook, valuation report of the land, Form 26AS and sale deed of the immovable property. After going through all the documents, the Assessing Officer made addition of Rs. 43,21,430/-, valuation report in respect of long term capital gain for the assessment year 2018-19 and also determined income as per return of income filed u/s. 148 at Rs. 1,26,486/-.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The ld. A.R. submitted that ground nos. 2, 3 and 5 are not pressed. As relates to ground no. 4, the ld. A.R. submitted that CIT(A) was not correct in confirming the addition made by the Assessing Officer relating only of valuation of immovable property by DVO which is only based on rates available of Garvi

Gujarat Website hence untenable. The ld. A.R. submitted as follows:

*"1. The facts of the case being appellant is non-filer and information about high value transactions of Rs. 3,36,00,000/= (2,88,00,000/= uploaded by Sub Registrar Dascroi + Rs. 48,00,000/= information uploaded by Income Tax department in respect of payments made and TDS u/s 194(A) against the correct transaction value of land jointly held of Rs. 1,44,00,000/= wherein appellant had 1/3rd share and received Rs. 48,00,000/= towards her share was flagged under the category "Non-Filing of Return". Notice u/s 148A(b) was issued, which remained unattended and hence order u/s 148A(d) (PB No. 1 to 4) was passed alleging escarpment of income and issued notice u/s 148. Appellant filed ITR in response to notice u/s 148 (PB No. 5) and offered LTCG of Rs. 1,20,458/= for sale of her share in jointly held property after claiming Indexed Cost based on approved valuer's valuation report (PB No. 9 to 18) for said property as on 01/04/2001 along with other income (PB No.6 to 8). The notice u/s 142(1) dated 31/10/2023 was issued (PB No. 19 and 20) calling various details, said notice was replied with evidences vide sub. Dated 13/11/2023 (PB No. 23 to 31) e-filed on the same date. Notice u/s 143(2) dated 17/01/2024 was issued (PB No. 32 to 35) and replied vide sub. Dated 22/01/2024 e-fled on 24/01/2024 (PB No. 38 to 40). SCN dated 01/03/2024 (PB No. 41 to 56) was issued stating why proposed variation in income should not be made. It was replied vide sub. Dated 02/03/2024 e-filed on 04/03/2024 (PB No. 60 to 66). Incorrect facts flagged on portal were corrected and ultimately correct of consideration of Rs. 48,00,000/= was admitted. AO granted VC, same was attended but AO ignored arguments in VC and reiterated same fact to conclude addition.*

*2. LD. JAO issued notice u/s 148 in violation of provision of section 144B and Notification S. O. 1466(E) dated 29/03/2022, copy attached (issued by Central Government in exercise of power conferred by section 151A introduce assessment scheme for escaped income). JAO has no power to issue notice u/s 148, only FAO can issue above notice. Since notice is issued without jurisdiction, all subsequent proceeding carried out are null and void and liable to be cancelled including assessment order. Appellant relied on following judicial pronouncements.*

*(a) Hexaware Technologies Ltd V. Asst. CIT [2024] 162 taxmann.com 225/464 ITR 430 (Bombay) held that notice u/s 148, after introduction of Finance Act, 2021, cannot be issued by jurisdictional Assessing officer.*

*(b) Kankanala Ravindra Reddy V. ITO [2023] 156 taxmann.com 178/295 taxmann 652 (Telangana) held that notice u/s 148 cannot be issued by jurisdictional Assessing officer (JAO).*

*(c) Ram Narayan Sah V. Union of India [2024] 163 taxmann.com 478/299 Taxmann 276(Guahati).*

*3. Appellant brought to the notice of AO that notice u/s 148 is issued by JAO on incorrect interpretation of fact relating to high value transaction flagged on portal. Appellant sold only one property at Rs. 1,44,00,000/= that is held jointly and her share was 1/3rd. The correct fact admitted by AO during assessment proceeding being sale of jointly held land, appellant having 1/3rd share and receipt of consideration of Rs. 48,00,000/=. The provision of section 149(b) and 151 are violated for issuance of notice u/s 148. CIT(A) made observation as credible information, though incorrect, flagged on portal based on which case was reopened. CIT(A) observed Point No. 7.2.4 Page No 14 of CIT(A) order as "AO is required to form a prima facie belief based on tangible material available on record".*

*4. The period of three years expired, AO can issue notice u/s 148 only if there is escapement of income in the form of assets is exceeding Rs. 50,00,000/=. In*

*case of appellant maximum allegation of escaped income can be made up to Rs. 48,00,000/= which is less than threshold limit, hence notice issued u/s 148 on 04/04/2022 is without legitimate jurisdiction in view of section 149(b). CIT(A) observed Point No. 7.2.6 Page No 15 of CIT(A) order as "escapement of income in the form of asset exceeding Rs. 50,00,000/= is to be interpreted as a whole. The transaction value flagged is Rs. 3,36,00,000/= exceeded the monetary threshold limit".*

*5. The approval has to be by PCCIT and not by PCIT as per section 151. In case of appellant approval is granted by PCIT, hence proceeding for reopening of assessment is termed as without jurisdiction, rendering all subsequent proceeding as infructuous/redundant.*

*6. The issue involved is confirmation of additions of Rs. 43,21,413/= made by Ld. AO vide order u/s 147 r.w.s.144B dated 15/03/2024 by NFAC, Delhi vide order u/s 250 dated 10/07/2024 rejecting valuation as on 01/04/2001 of approved valuers and adopting rates stated in "Garvi Gujarat Website" (Asst. Order Page No. 20). Ld. AO ignored judicial pronouncement by Andhra Pradesh High court in the case of CIT- I, Hyderabad vs. Ashven Delta [2013]37 taxmann.com 261 involving identical issue (Asst. Order Page No 22). CIT(A) discussed this issue vide CIT(A) observed Point No. 7.3.5 Page No 16 of CIT(A) order as "jantri rates are not applied mechanically but were used logical and justifiable basis in the absence of any other verified market value".*

*7. AO concluded assessment making addition to LTCG after modifying rates available on "Garvi Gujarat Website" logically and ignored the value as per Approved Valuer's report for concluding addition to LTCG. AO has no power under the Act to do so. Ultimately he relied on rates as available on "Garvi Gujarat Website". Appellant brought to the notice that SRO rates are not reliable as they are not arrived at scientifically and not revised/reviewed timely. Appellant adopted value as per approved valuer's report and relied on the decision of Honorable Andhra Pradesh High Court in the case of CIT- I, Hyderabad vs. Ashven Delta [2013]37 taxmann.com 261 involving identical issue, copy attached."*

6. The ld. D.R. relied upon the assessment order and the order of the CIT(A).

7. I have heard both the parties and perused all the relevant material available on record. The Assessing Officer has rejected the valuation of the approved valuer and only adopted rates stated in Guajrat Garvi website without giving any basis to that effect. In fact, the Assessing Officer made reference to the DVO on 16-02-2024 but has not waited for the same. Therefore, it will be appropriate to remand back this matter to the file of the CIT(A) for taking cognizance of the DVO's report and decide the case on merit as per Income Tax Act. Needless to say, the

assessee be given opportunity of hearing by following principles of natural justice.

8. In the result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the open court on 15-04-2026

**Sd/-**  
**(Suchitra Kamble)**  
**Judicial Member**

**Ahmedabad : Dated 15/04/2026**

a.k.

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद